

# ATTACHMENT 64

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1                   UNITED STATES DISTRICT COURT  
2                   EASTERN DISTRICT OF PENNSYLVANIA  
3

4   IN RE:    PROCESSED EGG PRODUCTS       MDL No. 2002  
5   ANTITRUST LITIGATION                     08-md-02002  
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7   THIS DOCUMENT RELATES TO:  
8   ALL DIRECT PURCHASER ACTIONS  
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13                  VIDEOTAPED RULE 30(b)(6) DEPOSITION OF  
14                  SPARBOE FARMS, INC.

15                  BY BETH SPARBOE SCHNELL

16                  *Taken April 22, 2014*

17                  *Commencing at 9:15 a.m.*

18  
19  
20  
21  
22  
23                  COURT REPORTER: ANNE HEGERMAN  
24  
25

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1 Videotaped Rule 30(b)(6) deposition of SPARBOE	1 (APPEARANCES Continued.)
2 FARMS, INC., by BETH SPARBOE SCHNELL, taken on April 22, 2014,	2
3 commencing at 9:15 a.m., at the law firm of HUTCHINSON, P.A.,	3 COUNSEL ON BEHALF OF INDIRECT PURCHASER PLAINTIFFS:
4 1907 East Wayzata Boulevard, Suite 330, Wayzata, Minnesota,	4 Charles Slidders, Esquire
5 before Anne Hegeman, Court Reporter, and Notary Public of	5 MILBERG, LLP
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25 (APPEARANCES Continued on next page.)	25 (APPEARANCES Continued on next page.)
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2	2
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25 (APPEARANCES Continued on next page.)	25 (APPEARANCES Continued on next page.)

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6 41 South High Street, Suites 2800-3200		6 Notice of Videotaped Deposition
7 Columbus, Ohio 43215		7 Under Rule 30(b)(6) to Defendant
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1 (EXHIBITS Continued.)		1 plaintiffs.
2 SCHNELL EXHIBITS MARKED	PAGE	2 MR. CARLSON: Scott Carlson on behalf of the
3		3 class of direct purchasers.
4 EXHIBIT 11: United Egg Producers Committee		4 MR. GREENE: William Greene of the law firm
5 Appointments for 2006,		5 of Stinson Leonard Street on behalf of Michael Foods.
6 BELL-D-00027071 to 27079,		6 MR. HUTCHINSON: Troy Hutchinson on behalf
7 CONFIDENTIAL.....135		7 of Sparboe Farms and the witness, Ms. Schnell.
8		8 MR. PATTON: On the phone?
9		9 MR. HUTCHINSON: On the phone?
10 * * * * *		10 MS. CRABTREE: Oh, Molly Crabtree for
11		11 Rose Acre Farms.
12		12 MS. LEVINE: Jan Levine for UEP and USEM.
13		13 MR. ARAGONA: Arin Aragona for Moark, LLC
14 and Norco Ranch, Inc.		14
15		15 VIDEOGRAPHER: Our court reporter,
16 Anne Hegerman, representing Veritext, New York, will swear		16
17 in the witness and we can proceed.		17
18 BETH SPARBOE SCHNELL,		18
19 duly sworn, was examined and testified as follows:		19
20 * * * * *		20
21 EXAMINATION		21
22 BY MR. PATTON		22
23 Q. Good morning. Would you please introduce		23
24 yourself for the record?		24
25 A. My name is Beth Schnell.		25
	Page 11	Page 13
1 * * * * *		1 Q. And what is your current address, Ms. Schnell?
2 TRANSCRIPT OF PROCEEDINGS		2 A. 1907 Wayzata -- Hackamore Lane. God, I'm giving
3 VIDEOGRAPHER: Good morning.		3 you the office address. 19210 Hackamore Road,
4 We are on the record. My name is		4 Hamel, Minnesota.
5 Charles Bonin, representing Veritext National Deposition		5 Q. And you understand that you've taken an oath to
6 and Litigation Services in New York.		6 testify truthfully today?
7 Today's date is April 22, 2014. The time is		7 A. I do.
8 approximately 9:15 a.m. This deposition is being held at		8 Q. Is there any reason that you cannot?
9 Hutchinson, P.A. located at 1907 East Wayzata Boulevard,		9 A. No.
10 Suite 330, Wayzata, Minnesota, and it's being taken by		10 Q. Are you on any medication --
11 counsel for the plaintiffs.		11 A. No.
12 The caption of this case is In Re, colon,		12 Q. -- that prevents you from testifying truthfully?
13 Processed Eggs Antitrust Litigation. This case is filed in		13 A. No.
14 the United States District Court Eastern District of		14 Q. Okay. I know you've been deposed before, but
15 Pennsylvania, Case Number 08, dash, MD, dash, 02002. The		15 just as a matter of review, it's important that the court
16 name of the witness is Beth Sparboe Schnell.		16 reporter take down my question and your answer, so if we
17 At this time the attorneys present in the		17 could leave ourselves a little break between the two, and
18 room and attending remotely will identify themselves and		18 then also if there's an answer that you feel compelled to
19 the parties they represent.		19 answer in a "yes" or "no" fashion, do that rather than
20 MR. PATTON: Doug Patton with the firm of		20 "uh-huhs" or "uh-uhs," because --
21 Kenny Nachwalter on behalf of the Kroger plaintiffs.		21 A. Okay.
22 MS. SCHWARTZ: Rachel Schwartz of		22 Q. -- those are ambiguous answers.
23 Stueve Siegel Hanson on behalf of the Kansas plaintiffs.		23 What did you do to prepare for your deposition
24 MR. SLIDERS: Charles Slidders of the firm		24 today?
25 of Milberg, LLP on behalf of the indirect purchaser		25 A. I reviewed a lot of documents. I've spent years

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<p>1 involved in this case.</p> <p>2 Q. How many documents?</p> <p>3 A. I have no idea, many.</p> <p>4 Q. Were they Sparboe documents?</p> <p>5 A. Yes.</p> <p>6 Q. Were they UEP documents?</p> <p>7 A. Yes.</p> <p>8 Q. Did they help you refresh your recollection at 9 all?</p> <p>10 A. They did.</p> <p>11 Q. When we go through some documents today, I may 12 ask you if these are one of the -- if this is a document 13 that you had --</p> <p>14 A. Yes.</p> <p>15 Q. -- looked at.</p> <p>16 You know that you're also designated as a 17 corporate representative today to testify on behalf of 18 Sparboe?</p> <p>19 A. Yes.</p> <p>20 Q. What did you do in preparation for that 21 obligation?</p> <p>22 A. The same.</p> <p>23 Q. All right. Did you speak with any individuals in 24 preparation for your deposition?</p> <p>25 A. Yes.</p>	<p>1 looked at UEP minutes.</p> <p>2 Q. And when did you meet with Mr. Mueller?</p> <p>3 A. Yesterday.</p> <p>4 Q. All right. And was that here?</p> <p>5 A. Mm-mm, yes.</p> <p>6 Q. How long did your meeting last?</p> <p>7 A. Several hours.</p> <p>8 Q. Was counsel present?</p> <p>9 A. Yes.</p> <p>10 Q. Did you review the letter that he wrote in 11 November of 2003 to the UEP?</p> <p>12 A. We did.</p> <p>13 Q. And why did you review that document?</p> <p>14 A. Because I think our counsel was preparing us for 15 our depositions.</p> <p>16 Q. Okay. Did you meet with Wayne Carlson?</p> <p>17 A. I did.</p> <p>18 Q. And when did you meet with Mr. Carlson?</p> <p>19 A. I meet with Wayne Carlson every week.</p> <p>20 Q. But in preparation for this deposition?</p> <p>21 A. In preparation for this deposition specifically?</p> <p>22 Could you define specifically what it is you're driving at?</p> <p>23 Q. Yeah, for your testimony that you've been 24 designated to testify on.</p> <p>25 MR. HUTCHINSON: And I'll object as vague as</p>
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<p>1 Q. Who?</p> <p>2 A. Employees.</p> <p>3 Q. Well, which employees?</p> <p>4 A. Over the -- could you define the term of the 5 period of time during which you're asking the question for?</p> <p>6 Q. Sure. In preparation for your deposition as 7 a 30(b)(6) witness, did you speak with individuals in order 8 to educate yourself to give testimony today?</p> <p>9 A. Well, yes.</p> <p>10 Q. And which individuals?</p> <p>11 A. Our management team, Wayne Carlson.</p> <p>12 Q. And who else?</p> <p>13 A. Steve Kosel.</p> <p>14 Q. Anyone else?</p> <p>15 A. I guess in preparation for today specifically, I 16 mean, that's a difficult question because this has been 17 going on for eight or nine, you know, eight years, so --</p> <p>18 Q. Right. Well, in preparation for your testimony 19 today, did you speak with John Mueller?</p> <p>20 A. I did.</p> <p>21 Q. And what did you speak with him about?</p> <p>22 A. We reviewed documents.</p> <p>23 Q. And what documents, if you recall?</p> <p>24 A. UEP notes. We just -- I don't know. We just 25 discussed. We looked notes. We looked at paperwork. We</p>	<p>1 to the time frame.</p> <p>2 THE WITNESS: Yeah, that's vague.</p> <p>3 BY MR. PATTON</p> <p>4 Q. When did you -- when's the last time you spoke 5 with Mr. Carlson?</p> <p>6 A. Yesterday afternoon.</p> <p>7 Q. And how long did you meet with him?</p> <p>8 A. Pertaining to this deposition --</p> <p>9 Q. Yes.</p> <p>10 A. -- specifically?</p> <p>11 A couple of hours.</p> <p>12 Q. And was counsel present?</p> <p>13 A. Yes.</p> <p>14 Q. How many, how many discussions have you had with 15 Mr. Carlson pertaining to this deposition?</p> <p>16 A. Preparation for this deposition, many.</p> <p>17 Q. Many? How many times would you --</p> <p>18 A. I can't say.</p> <p>19 Q. Okay. What about Garth Sparboe, when did you 20 speak with him last --</p> <p>21 A. Yesterday.</p> <p>22 Q. -- in preparation for this deposition?</p> <p>23 A. Yesterday.</p> <p>24 Q. And how long did you speak with Mr. Sparboe?</p> <p>25 A. Two hours.</p>

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<p>1 Q. So you had a busy day yesterday?</p> <p>2 A. I did.</p> <p>3 Q. And where is Mr. Garth Sparboe located?</p> <p>4 A. At the moment?</p> <p>5 Q. Yeah.</p> <p>6 A. He lives in Des Moines, Iowa.</p> <p>7 Q. Was he here, when you spoke with him?</p> <p>8 A. He was.</p> <p>9 Q. So he's in town.</p> <p>10 Let's go through some background and we'll come back to the 30(b)(6) notices. Is there anyone else that you -- before we get to background, is there anyone else you spoke with --</p> <p>14 A. I don't recall.</p> <p>15 Q. -- in preparation?</p> <p>16 A. No.</p> <p>17 Q. What about Mr. Murch? Did I say that right?</p> <p>18 A. No.</p> <p>19 Q. What about Ms. Dean?</p> <p>20 A. No.</p> <p>21 Q. What about Mr. Zachman?</p> <p>22 A. No.</p> <p>23 Q. Is Mr. Zachman still with the company?</p> <p>24 A. He is.</p> <p>25 Q. And, well, we'll get to that.</p>	<p>1 A. Yeah, I reviewed it prior to today.</p> <p>2 Q. And did it refresh your recollection as to answers you had given in that deposition?</p> <p>4 A. Yeah, I scanned the document. I didn't read every single word.</p> <p>6 Q. Okay. How long were you deposed in the Kansas litigation?</p> <p>8 A. Many hours. A full day.</p> <p>9 Q. And did you review the transcript and sign it in the case?</p> <p>11 MR. HUTCHINSON: Objection; asked and answered.</p> <p>13 THE WITNESS: Did I review the transcript?</p> <p>14 BY MR. PATTON</p> <p>15 Q. My question is slightly different. Have you reviewed the transcript and signed it?</p> <p>17 A. I don't recall signing it.</p> <p>18 Q. All right. Do you have an expectation that you'll sign it soon?</p> <p>20 A. I don't know.</p> <p>21 Q. I want to focus on your educational background. Did you attend university?</p> <p>23 A. I attended a college.</p> <p>24 Q. Which college?</p> <p>25 A. Gustavus Adolphus College.</p>
Page 19	Page 21
<p>1 Is Mr. Murch still with the company?</p> <p>2 A. No.</p> <p>3 Q. And is Ms. Dean still with the company?</p> <p>4 A. No.</p> <p>5 Q. Other than the individuals you've identified is there anyone else you've spoken to in preparation for your deposition?</p> <p>8 A. I don't recall.</p> <p>9 Q. Did you read any deposition transcripts?</p> <p>10 A. My own.</p> <p>11 Q. And which transcript was that?</p> <p>12 A. From the Kansas. From the Kansas deposition.</p> <p>13 Q. And was there information in that deposition that you relied on in preparation for your deposition today?</p> <p>15 A. No.</p> <p>16 Q. Why did you review it?</p> <p>17 A. I just was interested in reviewing it. I scanned it.</p> <p>19 Q. Did you review it in preparation for your deposition today?</p> <p>21 MR. HUTCHINSON: Objection; asked and answered.</p> <p>23 THE WITNESS: Yeah.</p> <p>24 BY MR. PATTON</p> <p>25 Q. You did?</p>	<p>1 Q. And when did you graduate?</p> <p>2 A. 1982.</p> <p>3 Q. And did you have a scholastic focus or any area of educational focus?</p> <p>5 A. I did.</p> <p>6 Q. What was that?</p> <p>7 A. A double major in economics, business, and Spanish.</p> <p>9 Q. And after graduation in 1982, did you go on to any higher education?</p> <p>11 A. No.</p> <p>12 Q. Well, what did you do after graduating?</p> <p>13 A. I worked for an advertising agency in Minneapolis.</p> <p>15 Q. And for how long were you with the advertising agency?</p> <p>17 A. About two years.</p> <p>18 Q. And what was the advertising agency?</p> <p>19 A. Campbell Mithun.</p> <p>20 Q. And what was your position?</p> <p>21 A. I was in the media department.</p> <p>22 Q. And then after that what did you do?</p> <p>23 A. Then I went to work for a food brokerage firm in Minneapolis.</p> <p>25 Q. And so does that bring us to 1984?</p>

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1 A. Mm-hmm.	1 Q. And national customers? Local customers?	
2 Q. And I'll take that as a "yes."	2 A. No, at that time we had regional, regional	
3 A. Yes, sorry.	3 customers, wholesalers and retailers.	
4 Q. So in 1984 what was the firm that you started 5 with?	4 Q. And can you expand on that? By wholesalers and 5 retailers, what types of businesses are you referring?	
6 A. The name of the company was Timmons-Sheehan 7 Manufacturers Rep.	6 A. Companies like Supervalu.	
8 Q. And what is -- when you said food brokerage firm, 9 what was its business?	7 Q. Supervalu is locally located?	
10 A. They were a manufacturers rep to the retail 11 business, grocery stores.	8 A. Minneapolis.	
12 Q. What grocery stores?	9 Q. In Minneapolis?	
13 A. All the Twin City and Minnesota-based grocery 14 stores of all types.	10 A. Mm-hmm.	
15 Q. So it was more of a local rather than national?	11 Q. Target?	
16 A. At that time it was. Today it's been 17 incorporated into a national firm.	12 A. Not at that time.	
18 Q. At that time did it have any dealings with the 19 Sparboe Company?	13 Q. What other companies?	
20 A. No.	14 A. At that time Red Owl was a retailer around, food 15 service companies.	
21 Q. How long -- what was your position with the 22 Timmons firm?	16 Q. And by food service companies, what do you mean?	
23 A. I was a sales supervisor.	17 A. Monarch Foods, and, you know, many of these 18 companies don't exist today.	
24 Q. And how long were you with Timmons?	19 Q. And --	
25 A. Approximately, two years.	20 A. And then we had individual stores, so we would, 21 we would have customers that were individual grocery stores 22 that were on a route, so we had route delivery people.	
Page 23		
1 Q. And then what did you do? That brings us to 2 around 1986?	23 Q. Like an independent --	
3 A. Yes.	24 A. Yeah, just grocery stores.	
4 Q. What did you do after that?	25 Q. -- grocery store?	
5 A. And then I returned to the family business.	Page 25	
6 Q. All right. And by family business, you're 7 referring to Sparboe?	1 And when you say you were a sales manager, what 2 did that entail?	
8 A. Sparboe.	3 A. I would go out and call on the customer and get 4 their business, if we needed to, or service their business, 5 support their business, help them.	
9 Q. And what was your first position in 1986 with 10 Sparboe?	6 Q. And what product were you supplying or --	
11 A. I was in the sales department.	7 A. Shell eggs.	
12 Q. What? Sales?	8 Q. Shell eggs at the time period?	
13 A. My title?	9 A. Mm-hmm.	
14 Q. Yeah.	10 Q. Was Sparboe engaged in further egg processing or 11 breaking eggs?	
15 A. I don't remember. Probably account manager or 16 sales representative.	12 A. Not at that time.	
17 Q. Can you walk us through your positions at Sparboe 18 starting in 1986? How long were you an account manager or 19 in the sales department?	13 Q. So when you called on food service companies, 14 were you also selling shell eggs?	
20 A. Boy, well, I spent most of my career in the sales 21 organization, moving into sales management, and ultimately 22 vice president of sales.	15 A. Yes.	
23 Q. Well, when you started in 1986 as sales manager, 24 what where your duties and responsibilities?	16 Q. How long again did you stay in that position? I 17 apologize.	
25 A. Calling on customers.	18 A. Indefinitely.	
	19 Q. Okay. When did your title change?	
	20 A. I'm still in sales.	
	21 Q. When did your title change, if at all?	
	22 A. I became a vice -- titles, I should say, are not 23 a big deal in our company, so forgive me for not having 24 these dates, because we don't, we're not big on titles, but 25 I earned the vice president title probably in 1997 or '8,	

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<p>1 something like that, so maybe 13 to 15 years later.</p> <p>2 Q. Did your job responsibilities between 1986</p> <p>3 and 1997 largely stay the same or did they change?</p> <p>4 A. No, pretty much the same.</p> <p>5 Q. And did the business grow?</p> <p>6 A. Modestly.</p> <p>7 Q. Okay. And explain that to me. If your</p> <p>8 responsibilities changed, basically saying they stayed the</p> <p>9 same --</p> <p>10 A. Mm-hmm.</p> <p>11 Q. -- then I'm thinking that perhaps the realm or</p> <p>12 the scope of your work --</p> <p>13 A. Yeah.</p> <p>14 Q. -- increased, and so could you walk me through</p> <p>15 that?</p> <p>16 A. I was calling on customers and serving customers</p> <p>17 and supporting customers and selling the eggs we produced.</p> <p>18 Q. Did Sparboe's scope of supply expand from</p> <p>19 regional to more national?</p> <p>20 A. No, not at that time.</p> <p>21 Q. So between 1986 and 1997, what would you, how</p> <p>22 would you define the Sparboe's business market?</p> <p>23 A. I think --</p> <p>24 MR. HUTCHINSON: Objection to form.</p> <p>25</p>	<p>1 Q. And do you have a rough sense of when that</p> <p>2 occurred?</p> <p>3 A. I know exactly when. Oh, when I became a</p> <p>4 senior --</p> <p>5 Q. Senior vice president.</p> <p>6 A. No.</p> <p>7 Q. Been in the mid-2000s thereabout or early --</p> <p>8 A. Probably around then. Maybe around 2000</p> <p>9 something. I don't know, recall the date.</p> <p>10 Q. All right. And had Sparboe's business</p> <p>11 between '97 and 2000, when you became senior vice</p> <p>12 president, did Sparboe's business regionally change at all?</p> <p>13 MR. HUTCHINSON: Objection to form.</p> <p>14 BY MR. PATTON</p> <p>15 Q. Let me, what I'm trying to get at is, did the</p> <p>16 scope of Sparboe's business change between the time you</p> <p>17 were vice president in 1997 and became senior vice</p> <p>18 president in 2000?</p> <p>19 MR. HUTCHINSON: Objection to form.</p> <p>20 WITNESS: Well, our company, I mean, we were</p> <p>21 just on a modest growth projection, so the title really</p> <p>22 didn't represent any change in our business model at all.</p> <p>23 I took on additional responsibilities at that time for</p> <p>24 running our liquid egg business, so my responsibilities</p> <p>25 changed when I became senior vice president.</p>
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<p>1 BY MR. PATTON</p> <p>2 Q. And by region?</p> <p>3 A. So could you restate the question?</p> <p>4 Q. Yeah. From '86 though '97, please describe the</p> <p>5 business, the region in which Sparboe did business in the</p> <p>6 United States.</p> <p>7 A. Very regional, very much the five states</p> <p>8 surrounding Minnesota; North Dakota, South Dakota. Perhaps</p> <p>9 at that time, I can't recall, we may have been a little bit</p> <p>10 into Nebraska, northern Nebraska, Iowa, Wisconsin.</p> <p>11 Q. And, of course, Minnesota?</p> <p>12 A. So we call that the Midwest.</p> <p>13 Q. Including Minnesota?</p> <p>14 A. Mm-hmm.</p> <p>15 Q. So we've got six states. And now in 1997, when</p> <p>16 you became or your title changed to vice president, how did</p> <p>17 your duties and responsibilities change?</p> <p>18 A. Not at all.</p> <p>19 Q. It was a title, change in title? And how long</p> <p>20 did you hold the title of vice president?</p> <p>21 A. At some point along the way, I became a senior</p> <p>22 vice president.</p> <p>23 Q. Do you have a rough date on that?</p> <p>24 A. Which meant absolutely no difference in my job</p> <p>25 title.</p>	<p>1 BY MR. PATTON</p> <p>2 Q. How did they change?</p> <p>3 A. As I mentioned, I was managing the</p> <p>4 liquid-breaking operation at that time.</p> <p>5 Q. What is the liquid-breaking operation?</p> <p>6 A. Where eggs are cracked and broken and put into</p> <p>7 liquid form.</p> <p>8 Q. And then provided to food service companies?</p> <p>9 A. Nope.</p> <p>10 Q. To what kind of customers?</p> <p>11 A. We sold to other egg industry companies at that</p> <p>12 time largely, so we would sell to other egg companies.</p> <p>13 Q. Help me understand. When you say other egg</p> <p>14 companies, what do you mean?</p> <p>15 A. Other companies that would take the liquid egg</p> <p>16 and add more value to it, so we were breaking the eggs and</p> <p>17 selling tanker loads of eggs at that time to other egg</p> <p>18 companies who further processed the eggs.</p> <p>19 Q. So would that include perhaps defendants in this</p> <p>20 case like Michael Foods or Cal-Maine? And I'm just</p> <p>21 guessing.</p> <p>22 A. It could, yes.</p> <p>23 Q. So tell me what kind of customers Sparboe was</p> <p>24 supplying with its liquid egg business.</p> <p>25 MR. HUTCHINSON: Objection; asked and</p>

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1 answered. 2 BY MR. PATTON 3 Q. Identify the companies, please. 4 A. Other companies that would take a liquid product, 5 and maybe do other value-added products to it. 6 Q. What specific companies, if you can identify 7 them? 8 A. We sold to Sonstegard. We sold eggs to 9 Cargill Kitchen Solutions, which was Sunny Fresh at the 10 time, Michael Foods. I don't have a complete list of 11 customers. 12 Q. When did Sparboe begin in the liquid egg 13 business? 14 A. We acquired a small breaking plant in Iowa in the 15 late '90s. I don't recall the specific date. 16 Q. Do you know what plant that was? 17 A. Cal-Mar Foods was the name of the firm. 18 Q. And that's when that became part of your 19 responsibility to also sell? 20 A. Not immediately, but after we owned it for a 21 while, I took that responsibility. 22 Q. Who did you take the responsibility from? 23 A. Greg Murch. 24 Q. Now, did your job title or did your 25 responsibilities change again after you became senior	Page 30	1 Q. I understand. I didn't want to -- 2 A. Yeah, so I guess I'm not sure. What are you 3 asking me? 4 Q. I mean, but what were your responsibilities as 5 president of the company? 6 A. Well, I was responsible to all of our customers. 7 I was responsible to all of our employees. I was 8 responsible to make sure that our business enterprise moved 9 forward. 10 Q. At that time period, how many employees, when you 11 became president in October of 2005, how many employees? 12 A. Approximately, 600. 13 Q. And 600 employees, and how many people or how 14 many individuals reported directly to you at that time? 15 A. A handful maybe. I don't recall specifically. 16 Q. Well, let me, let's do this. We're going to come 17 back to some organizational things in a minute. I'd like 18 to mark the 30(b)(6) notice we served in this case. 19 (Exhibit Number 1 was marked for identification 20 by Mr. Patton.) 21 BY MR. PATTON 22 Q. I'll hand you what's been marked as 23 Schnell Exhibit 1. 24 MR. PATTON: I didn't know that there was 25 going to be a bunch of defendants here, I am sorry.	Page 32
1 vice president? 2 A. No. That was when I got the -- 3 Q. I apologize. You became senior vice president in 4 and around 2000. How long did you hold that position? 5 A. Until October 8 of 2005. 6 Q. And what position did you take at that time? 7 A. President. 8 Q. President, and who made you president? 9 A. Me. 10 Q. Okay. And how did your duties or 11 responsibilities change when you became president? 12 A. Dramatically. 13 Q. And what additional responsibilities did you take 14 on? 15 A. Well, as the president of the company, you take 16 on, you take on, you ultimately have all the 17 responsibilities. 18 Q. Okay. So -- 19 A. I mean, ultimately your company. 20 Q. -- by October 8, 2005, you were running the 21 company; is that a fair statement? 22 A. In title. 23 Q. Why do you say in title? 24 A. I was running the company. It was my father 25 passed away, so I took over the responsibilities.	Page 31	1 BY MR. PATTON 2 Q. Have you seen this document before, Ms. Schnell? 3 MR. HUTCHINSON: Can we go off the record 4 for one minute? 5 MR. PATTON: Sure. 6 VIDEOGRAPHER: We are going off the record. 7 The time is 9:37 a.m. 8 (Discussion was held off the record.) 9 VIDEOGRAPHER: We are back on the record. 10 The time is 9:40 a.m. 11 BY MR. PATTON 12 Q. Ms. Schnell, have you seen this document before? 13 A. I don't recall. 14 Q. Well, let's walk through the document quickly to 15 see what subjects you're prepared to talk about or testify 16 to today. If you turn to page 5, you'll see the 17 instructions identify the time period 1999 through 2008. 18 A. So which line? I'm sorry, which line are you on? 19 Oh, starting at the bottom? 20 Q. Instructions, yeah. 21 The time period covered by these topics is 1999 22 through December 2008? 23 A. Yes. 24 Q. Are you prepared to testify on those dates? 25 A. I am.	Page 33

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<p style="text-align: right;">Page 34</p> <p>1 Q. And then if we turn back to Schedule A, are you 2 prepared to testify on subject two, which is 3 Capper-Volstead compliance by you, meaning Sparboe? 4 A. Yes. 5 Q. Topic three, Sparboe's flock size during this 6 time period? 7 A. Yes. 8 Q. Your topic four, chick hatch reduction? I'm 9 sorry, your chick hatch and reasons for changes in your 10 chick hatch volume? 11 A. I am. 12 Q. All right. Let's go to topic seven. Are you 13 able to testify about Sparboe's participation in the UEP -- 14 A. Yes. 15 Q. -- certified program? 16 Topic eight? 17 A. Yes. 18 Q. Your purchase of eggs for resale? 19 A. I'm probably -- 20 MR. HUTCHINSON: And I'm going to object to 21 the extent that, you know, your question is assuming that 22 there are all of these things. Correct? 23 MR. PATTON: Well, that would make it easy. 24 BY MR. PATTON 25 Q. Ms. Sparboe, during the 1999 through 2008 --</p>	<p style="text-align: right;">Page 36</p> <p>1 other people to buy their eggs, and those chickens were in 2 cages, and we would have brought those eggs into our 3 company. 4 Q. And then marketed them under the Sparboe name? 5 A. Broken them probably, in that case, yeah. 6 Q. Okay. So is it your testimony that when Sparboe 7 did buy eggs, they were largely for processing, not for 8 shell egg marketing? 9 MR. HUTCHINSON: Objection; form. 10 WITNESS: I can't -- I can't agree to that, 11 no. I mean, I'm not prepared to answer that. 12 BY MR. PATTON 13 Q. At times that would happen? 14 A. Yeah, for sure. 15 Q. Okay. While we're on that, let's just stick on 16 that subject then. What entities did Sparboe buy eggs 17 from? 18 MR. HUTCHINSON: Objection to form. 19 WITNESS: I'm not prepared to answer that 20 either. From -- I don't know. I would have to research 21 that. I don't know. 22 BY MR. PATTON 23 Q. So you wouldn't know the companies? 24 A. Mm-mm. 25 MR. HUTCHINSON: From what period of time?</p>
<p style="text-align: right;">Page 35</p> <p>1 A. But I would not be prepared to testify to every 2 egg transaction that took place in the company over nine 3 years, so -- 4 Q. Okay. But did -- 5 A. -- I would have to say, no, I am not prepared to 6 answer that. 7 Q. The easy way, did Sparboe purchase eggs for 8 resale during the '99 through 2000 time period? 9 A. I would suspect we did. 10 Q. All right. And why would you suspect that? 11 A. Because we sold specialty eggs to meet our 12 customers' needs, so we would buy organic or cage-free 13 eggs. I know that for a fact. 14 Q. All right. And what may make it easy on this 15 subject is, as far as eggs, shell eggs or further processed 16 eggs that were raised in cages, did Sparboe buy eggs? 17 A. We -- well, we bought eggs. Yes, we bought eggs 18 from other people in one manner or another during that 19 period of time from chickens that would have been raised in 20 cages, yes. 21 Q. All right. 22 A. As a company, we would have. 23 Q. And why would Sparboe have done that? 24 A. In our Sparboe Foods division, we would buy eggs 25 from companies that were long -- or we had contracts with</p>	<p style="text-align: right;">Page 37</p> <p>1 MR. PATTON: From 1999 through 2008. 2 MR. HUTCHINSON: All of them? 3 THE WITNESS: Yeah, so could you be clearer? 4 So you're asking for our foods division or our farms 5 division or collectively? 6 BY MR. PATTON 7 Q. Well, topic nine says your purchase of eggs for 8 resale, including your supplier and annual purchase volumes 9 for each supplier. And it would be the manner in which you 10 price prices for your eggs, prices for your purchases of 11 eggs for resale are established, so let's start with "A." 12 Can you identify which suppliers Sparboe bought 13 eggs from? 14 MR. HUTCHINSON: Objection; vague. 15 WITNESS: Not prepared to answer that. 16 BY MR. PATTON 17 Q. Do you have a general sense of the annual volume 18 of -- 19 A. Not prepared. No, I don't. 20 Q. Okay. And would you be prepared to say the 21 manner in which prices for the eggs you purchased were set 22 for resale? 23 A. The manner in which prices are set for resale? 24 Could you specifically talk about which market you're 25 talking about there?</p>

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<p style="text-align: right;">Page 38</p> <p>1 Q. Well, what -- I don't know, so what markets 2 did --</p> <p>3 A. Yeah, well, I mean, so I mentioned that we have 4 the liquid business, and we also, of course, have a shell 5 egg business, and then we have specialty eggs, and so 6 there's many different channels of customers.</p> <p>7 Q. So let's focus on liquid for now.</p> <p>8 A. Liquid eggs are sold on a market that's quoted 9 daily.</p> <p>10 Q. Is that the Urner Berry market?</p> <p>11 A. Mm-hmm.</p> <p>12 Q. So it's Urner Berry for liquid eggs?</p> <p>13 A. Typically, and yes, and sometimes, yes, that's 14 one way of pricing liquid eggs.</p> <p>15 Q. What's the other way or other ways?</p> <p>16 A. There are some contracts that are cost plus, 17 some, but largely, our customers, we sold our eggs on the 18 market.</p> <p>19 Q. Now, when you purchased eggs, how was the price 20 set?</p> <p>21 A. On the market. On the market for the most part.</p> <p>22 Q. So you would go to a supplier and buy eggs at 23 market price?</p> <p>24 A. Buy them over the trade, over the clearinghouse, 25 in some cases.</p>	<p style="text-align: right;">Page 40</p> <p>1 A. I would say it's close to that, yes.</p> <p>2 Q. To 80?</p> <p>3 A. Way north of. Way north of. I can't say for 4 sure, but it would be the majority. Can I say that?</p> <p>5 Q. Yes.</p> <p>6 A. Okay.</p> <p>7 Q. Okay. Let's go, subjects 10, 11, and 12 deal 8 with backfilling, molting, flock disposal practices, and 13 9 is beak trimming. Do you have -- are you able to speak to 10 those practices today?</p> <p>11 A. In general terms, yes.</p> <p>12 Q. What about topic 15, your contracts -- your 13 contacts with UEP's scientific advisory committee?</p> <p>14 A. I would not be able to testify about that.</p> <p>15 Q. Your contacts with any of the direct action 16 plaintiffs, direct purchaser plaintiffs, and indirect 17 purchasers in this case?</p> <p>18 A. I was in charge of sales, so I would suppose, 19 yes.</p> <p>20 Q. Okay. How about 19? Sparboe's sponsorship of 21 animal welfare studies?</p> <p>22 A. I guess, in general terms, I would. I'm not 23 aware of any.</p> <p>24 Q. And topic 20, complaints or investigations 25 regarding your treatment of hens, including any</p>
<p style="text-align: right;">Page 39</p> <p>1 Q. And then you would break them and resell them at 2 market price?</p> <p>3 A. Mm-hmm, mm-hmm.</p> <p>4 Q. How did you make money?</p> <p>5 A. Well, you -- the markets are different. You buy 6 shell eggs, and you sell liquid eggs on the market. That's 7 one differentiation.</p> <p>8 Q. Is the --</p> <p>9 A. And you don't always make money, believe me.</p> <p>10 Q. Right. So there would typically be a difference 11 in price between shell and liquid?</p> <p>12 A. Always moving.</p> <p>13 Q. Is there a way to generalize and say that the 14 prices are higher for processed eggs than they are for 15 shell eggs or is it the other way around?</p> <p>16 A. No. It changes every day. Every week the 17 markets move.</p> <p>18 Q. Generally, at what percentage -- Sparboe, for 19 instance, what percentage of eggs did it buy as opposed to 20 produce itself?</p> <p>21 A. So what percent, I would say, the vast majority 22 we produce ourselves.</p> <p>23 Q. And could you put a number on that?</p> <p>24 A. Not with certainty.</p> <p>25 Q. Would, say, 80 to 90 percent of Sparboe eggs --</p>	<p style="text-align: right;">Page 41</p> <p>1 investigations via complaints to the 2 Federal Trade Commission?</p> <p>3 A. Generally.</p> <p>4 Q. Okay. Topic 24, all new facilities for layer 5 hens that you constructed, that Sparboe constructed or 6 acquired?</p> <p>7 A. Yes.</p> <p>8 Q. And then Sparboe's commitments or intentions, 9 topic 27, commitments or intentions to provide to UEP, 10 Sparboe provided to UEP to manage, control, or reduce flock 11 size?</p> <p>12 MR. HUTCHINSON: And I'm going to object 13 to --</p> <p>14 WITNESS: Yeah.</p> <p>15 MR. HUTCHINSON: -- that, that assumes facts 16 not in evidence.</p> <p>17 THE WITNESS: Yeah, and I can't, no, I'm 18 not. I can't. I can't attest. I mean, I -- I guess, I 19 can attest to it as much as I know.</p> <p>20 BY MR. PATTON</p> <p>21 Q. And so it asks for all commitments or intentions 22 Sparboe provided to UEP to manage, control, or reduce flock 23 size.</p> <p>24 A. Oh, okay.</p> <p>25 MR. HUTCHINSON: Same objection.</p>

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<p>1 BY MR. PATTON</p> <p>2 Q. You can answer.</p> <p>3 A. I can speak to that.</p> <p>4 Q. All right. So I think we're done with that</p> <p>5 document.</p> <p>6 A. Okay.</p> <p>7 Q. Let's talk about Sparboe's organization for a</p> <p>8 minute. Throughout the 2000s, for instance, Sparboe was</p> <p>9 the fifth largest egg producer in the United States; is</p> <p>10 that right?</p> <p>11 A. At some points. Not the entire time.</p> <p>12 Q. Well, let's start in 2000. Was it the fifth</p> <p>13 largest?</p> <p>14 A. I don't recall.</p> <p>15 Q. At what point, I mean, today, today, and I've</p> <p>16 seen documents in the case identifying Sparboe as the fifth</p> <p>17 largest producer in the United States.</p> <p>18 A. Mm-hmm.</p> <p>19 MR. HUTCHINSON: Objection to form.</p> <p>20 BY MR. PATTON</p> <p>21 Q. When did that happen?</p> <p>22 MR. HUTCHINSON: Sorry, Doug.</p> <p>23 WITNESS: I believe there was about a</p> <p>24 three-year period of time when we were, perhaps</p> <p>25 from about 200- -- about -- I don't recall the specific</p>	<p>Page 42</p> <p>1 A. Well, I have to tell you that's virtually</p> <p>2 impossible to say, because every year the dollars in the</p> <p>3 market changed, and every year the number of eggs we would</p> <p>4 sell would change because of moving, moving production</p> <p>5 numbers, so, and in our industry that's difficult.</p> <p>6 Q. Well, let's say in 2000 to 2005, what were</p> <p>7 Sparboe's annual revenues on average?</p> <p>8 A. I don't recall.</p> <p>9 Q. Over 100 million? Below 100 million?</p> <p>10 A. Over 100 million.</p> <p>11 Q. Over 150?</p> <p>12 A. Very likely.</p> <p>13 Q. All right. So let's use, and I'm just speaking</p> <p>14 in general terms --</p> <p>15 A. Mm-hmm.</p> <p>16 Q. -- what about two hundred, two hundred thousand,</p> <p>17 were you --</p> <p>18 A. I would be speculating.</p> <p>19 Q. All right. But certainly between 150,000</p> <p>20 and 200,000?</p> <p>21 A. Yes, I would say, yes.</p> <p>22 Q. From the 2005 to 2010 period, were those revenues</p> <p>23 also over 150 million a year?</p> <p>24 A. I would say, yes.</p> <p>25 Q. And when, if you were to break up those revenues</p>
<p>Page 43</p> <p>1 years, but there was a short period of time during the</p> <p>2 decade that we would have been the fifth largest.</p> <p>3 BY MR. PATTON</p> <p>4 Q. Would that have been --</p> <p>5 A. According to Egg Industry Magazine.</p> <p>6 Q. Right. And would that have been in the</p> <p>7 early 2000s or late 2000s?</p> <p>8 A. Probably midway to the later.</p> <p>9 Q. Was it '04, '05, '06?</p> <p>10 A. No.</p> <p>11 Q. No?</p> <p>12 A. No, I'm guessing. I can't confirm the specific</p> <p>13 dates. I don't want to. I don't recall the specific</p> <p>14 dates.</p> <p>15 Q. Has Sparboe at least always been in the top ten?</p> <p>16 A. Not -- we are no longer in the top ten.</p> <p>17 Q. Well, through -- let's focus on '99 through 2010.</p> <p>18 A. And I can't confirm that we were always in the</p> <p>19 top ten, no.</p> <p>20 Q. What does --</p> <p>21 A. But I would say a good chunk of the time we would</p> <p>22 have been in the top ten.</p> <p>23 Q. Maybe we can do this by sales percentage. What</p> <p>24 is, in dollars, the volume? What were the average annual</p> <p>25 dollars in sales that Sparboe had?</p>	<p>Page 43</p> <p>1 between shell eggs and processed eggs, roughly what</p> <p>2 percentage would be attributable to shell eggs?</p> <p>3 A. Again, it would vary by year, but I would say</p> <p>4 probably 60 to 70 percent would be shell eggs.</p> <p>5 Q. Was there ever a point where Sparboe's revenues</p> <p>6 exceeded 200 million, that you can recall?</p> <p>7 A. Yes.</p> <p>8 Q. When?</p> <p>9 A. I'm guessing in 2010.</p> <p>10 Q. And in 2010 it exceeded by how much?</p> <p>11 A. I don't recall the specifics.</p> <p>12 Q. Are there documents that would tell us that?</p> <p>13 A. What our annual revenues were?</p> <p>14 Q. Yes.</p> <p>15 A. Yes.</p> <p>16 Q. And what type of document would you look to?</p> <p>17 A. A financial statement.</p> <p>18 Q. And does Sparboe maintain audited financial</p> <p>19 statements?</p> <p>20 A. We do.</p> <p>21 Q. Who is your outside auditor?</p> <p>22 A. Our outside auditor has been Moore Stephens</p> <p>23 for --</p> <p>24 Q. And they audit, they have audited Sparboe's</p> <p>25 financial statements from 2000 through 2010?</p>

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<p>1 A. Not the entire time, no.</p> <p>2 Q. When did they? When did they start?</p> <p>3 A. In 200- -- I believe 200- -- 2007, I believe.</p> <p>4 Q. Prior to that who was your outside auditor?</p> <p>5 A. An auditing firm in Willmar, Minnesota, named Parker, Latham Parker.</p> <p>6 Q. And what is Sparboe's financial year?</p> <p>8 A. June 30.</p> <p>9 Q. June 30 to July 1?</p> <p>10 A. Mm-hmm. I mean, July 1. We close on June 30.</p> <p>11 Excuse me. I thought you meant what is our closing date.</p> <p>12 Q. So Sparboe's financial year is July 1 through June 30?</p> <p>14 A. Correct.</p> <p>15 Q. Does Sparboe maintain profit and loss statements?</p> <p>16 A. We do.</p> <p>17 Q. And how are those maintained? On a weekly, daily, monthly --</p> <p>19 A. Monthly.</p> <p>20 Q. And who is in charge of generating those today?</p> <p>21 A. Our accounting department.</p> <p>22 Q. And is that headed, was that headed by Ken Zachman for a while?</p> <p>24 A. At one time.</p> <p>25 Q. For how long did Mr. Zachman head that?</p>	<p>1 Q. Does it maintain or does it monitor individually its, what's the right word, farm --</p> <p>3 A. Mm-hmm.</p> <p>4 Q. -- or plant or facility? That's --</p> <p>5 A. Yeah.</p> <p>6 Q. -- facility?</p> <p>7 A. Mm-hmm.</p> <p>8 MR. HUTCHINSON: Objection; calls for speculation on behalf of this witness.</p> <p>10 BY MR. PATTON</p> <p>11 Q. Okay. So let's, for instance, use one of -- as an example, one of Sparboe's facilities like the Goodell facility.</p> <p>14 A. Mm-hmm.</p> <p>15 Q. What accounting methodology does Sparboe use to determine the cost, the production, the output?</p> <p>17 A. We have --</p> <p>18 MR. HUTCHINSON: Objection; calls for speculation.</p> <p>20 You can answer, if you know.</p> <p>21 WITNESS: Yeah, I have -- I am just unclear.</p> <p>22 Are you asking for how we manage our costs or how we manage our -- I guess I'm just unclear what you're looking for.</p> <p>24 BY MR. PATTON</p> <p>25 Q. Sure. And I probably won't do a good job of</p>
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<p>1 A. I can't recall. It was Cathy Dean headed that during the period of time, probably, that we're talking about.</p> <p>4 Q. In addition to annual audited financials and monthly profit and loss statements, what other type of financial records does, did Sparboe maintain during the 2000 to 2010 --</p> <p>8 A. None.</p> <p>9 Q. -- time period?</p> <p>10 A. Yeah, none.</p> <p>11 Q. None? Does Sparboe have any other means of managing or monitoring its profit besides the profit and loss statements?</p> <p>14 MR. HUTCHINSON: I'm going to object to these questions as outside of the scope of your 30(b)(6).</p> <p>16 What topic are you on, Mr. Patton?</p> <p>17 MR. PATTON: Well, I'm going to ask her as an individual, as an individual witness, those questions, as the president of the company.</p> <p>20 BY MR. PATTON</p> <p>21 Q. Does Sparboe track, for instance, its plants, each individual plant's, and by plant, I mean, farm --</p> <p>23 A. Mm-hmm.</p> <p>24 Q. -- profits?</p> <p>25 A. No.</p>	<p>1 this, but at some point --</p> <p>2 A. Well, I mean, just, if you can give me the context of what are you --</p> <p>4 Q. Right. I'm --</p> <p>5 A. Are you trying to say how do we manage, how efficiently we're operating, or how well we're operating, or --</p> <p>8 Q. Nope. So if you generate a monthly P&amp;L --</p> <p>9 A. Mm-hmm.</p> <p>10 Q. -- and you have, you know, six or seven facilities --</p> <p>12 A. Mm-hmm.</p> <p>13 Q. -- how does the performance from that facility end up reflecting, being reflected in the P&amp;L? So what at the facility level do you monitor?</p> <p>16 A. Costs.</p> <p>17 MR. HUTCHINSON: Objection; calls for speculation.</p> <p>19 BY MR. PATTON</p> <p>20 Q. Costs?</p> <p>21 A. Mm-hmm.</p> <p>22 Q. And how does Sparboe monitor those costs?</p> <p>23 MR. HUTCHINSON: Objection; calls for speculation.</p> <p>25</p>

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<p>1 BY MR. PATTON</p> <p>2 Q. Is there a report?</p> <p>3 A. Our feed costs, our production numbers, our labor</p> <p>4 costs, our -- yes, we manage our costs.</p> <p>5 Q. Okay. And are those costs delineated in a report</p> <p>6 that are generated on a per plant --</p> <p>7 A. The same report I referred to earlier.</p> <p>8 Q. The profit and loss report?</p> <p>9 A. Mm-hmm.</p> <p>10 Q. And so the accounting department gets information</p> <p>11 from each plant and then rolls those up into a profit and</p> <p>12 loss statement?</p> <p>13 MR. HUTCHINSON: Objection; calls for</p> <p>14 speculation.</p> <p>15 WITNESS: I'm not sure how that -- I'm not</p> <p>16 sure what your question is about how they get the</p> <p>17 information. Is that the crux of your question?</p> <p>18 BY MR. PATTON</p> <p>19 Q. Yeah, how does -- how do you know what the costs</p> <p>20 for the Litchfield plant were for the month?</p> <p>21 A. Through accounts payable.</p> <p>22 Q. Okay.</p> <p>23 A. I don't know how they -- I'm not qualified to</p> <p>24 answer specifically. I don't work in the accounting</p> <p>25 department.</p>	<p>1 A. I'm not -- it's incredibly complicated, and I'm</p> <p>2 not -- I can't -- I can't specifically state. A number of</p> <p>3 trusts that Bob Sparboe created for the benefit of his</p> <p>4 family.</p> <p>5 Q. How many? Do you know how many types?</p> <p>6 MR. HUTCHINSON: Objection.</p> <p>7 WITNESS: Many.</p> <p>8 MR. HUTCHINSON: Calls for speculation.</p> <p>9 BY MR. PATTON</p> <p>10 Q. Many?</p> <p>11 A. Mm-hmm.</p> <p>12 Q. Which family members were covered by the trust?</p> <p>13 A. His children.</p> <p>14 Q. And that would be, in addition to yourself?</p> <p>15 A. Myself and two brothers.</p> <p>16 Q. Garth?</p> <p>17 A. Yes.</p> <p>18 Q. And?</p> <p>19 A. Mark.</p> <p>20 Q. Does Mark work for Sparboe?</p> <p>21 A. No.</p> <p>22 Q. In addition to Garth, Mark, and yourself were</p> <p>23 there any other owners that had an interest in</p> <p>24 Sparboe Companies by form of trust?</p> <p>25 A. No.</p>
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<p>1 Q. How do you know the sales out of that? Does</p> <p>2 Sparboe monitor the sales out of that particular plant?</p> <p>3 A. I guess, yeah.</p> <p>4 Q. How? Is there a report?</p> <p>5 A. Not by -- not specifically by plant.</p> <p>6 Q. At what level are sales monitored?</p> <p>7 A. Corporately.</p> <p>8 Q. And that's in the P&amp;L?</p> <p>9 A. Mm-hmm.</p> <p>10 Q. All right. Now, who owns Sparboe today?</p> <p>11 A. I do.</p> <p>12 Q. And does anyone else own Sparboe? You're the 100</p> <p>13 percent owner?</p> <p>14 A. Mm-hmm.</p> <p>15 Q. Now, as of October 5, 2008, or prior to</p> <p>16 October 5, 2008, who owned -- I'm sorry, let me ask that</p> <p>17 again.</p> <p>18 Prior to October 8, 2005 --</p> <p>19 A. It was actually October 5, but --</p> <p>20 Q. Okay. October 5, 2005, right?</p> <p>21 A. Mm-hmm.</p> <p>22 Q. Who owned Sparboe?</p> <p>23 A. Bob Sparboe and a series of trusts.</p> <p>24 Q. And what were those trusts or who are those</p> <p>25 trusts?</p>	<p>1 Q. Do you know what percentage of --</p> <p>2 A. Oh, my children, yes.</p> <p>3 Q. Prior to 2005?</p> <p>4 A. Yes.</p> <p>5 Q. To what percentage was Sparboe Companies owned by</p> <p>6 a trust versus owned by Mr. Sparboe prior to</p> <p>7 October 5, 2008?</p> <p>8 A. I can't -- I don't recall the specific</p> <p>9 percentage.</p> <p>10 Q. Today you're the 100 percent owner?</p> <p>11 A. I am.</p> <p>12 Q. And so did you, I take it, you had to buy out the</p> <p>13 trusts?</p> <p>14 A. I did.</p> <p>15 Q. And how much did that cost?</p> <p>16 A. It's -- I don't recall.</p> <p>17 Q. Okay. How is -- there's no other family members</p> <p>18 today that have any other ownership interests in</p> <p>19 Sparboe Farms?</p> <p>20 A. Myself, and some trusts that I've set up for my</p> <p>21 children.</p> <p>22 Q. Okay. So as of -- at what point in time after</p> <p>23 October 5, 2008, did you become the sole owner?</p> <p>24 A. 2008.</p> <p>25 Q. 2008. Now, how was -- and I'm going to ask this</p>

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<p>1 in just very general terms. How is Sparboe managed on a 2 daily basis from its -- for its -- start it again.</p> <p>3 How is Sparboe's business managed on a daily 4 basis?</p> <p>5 MR. HUTCHINSON: Objection to form.</p> <p>6 WITNESS: Could you be more specific?</p> <p>7 BY MR. PATTON</p> <p>8 Q. Yeah, maybe I'll ask it this way. Does Sparboe 9 have a board?</p> <p>10 A. We have an advisory board.</p> <p>11 Q. And what is an advisory board?</p> <p>12 A. A board that has been set up to advise me and the 13 management in governance of the company.</p> <p>14 Q. And how many members are on the advisory board?</p> <p>15 A. Five.</p> <p>16 Q. Five?</p> <p>17 A. Mm-hmm.</p> <p>18 Q. And has that changed over time?</p> <p>19 A. No.</p> <p>20 Q. So that will make it easy then. Who's been -- 21 who are the members of the advisory board, and when did -- 22 let me ask it this way. When did the advisory board start?</p> <p>23 A. In February of 2006.</p> <p>24 Q. And is that something you created?</p> <p>25 A. I did.</p>	<p>1 A. My husband, Bob Schnell.</p> <p>2 Q. And what is his business?</p> <p>3 A. He's in the insurance business.</p> <p>4 Q. And we're missing one more person.</p> <p>5 A. Oh, and today, and I added a year ago. I added 6 another advisory board member. Her name is Kathi Tunheim.</p> <p>7 Q. And what is her job?</p> <p>8 A. She's a professor.</p> <p>9 Q. In what area?</p> <p>10 A. Organizational behavior.</p> <p>11 Q. And how frequently does the advisory board meet?</p> <p>12 A. Quarterly.</p> <p>13 Q. And has that always been the case since 2006?</p> <p>14 A. Every quarter.</p> <p>15 Q. And are they paid a stipend or compensated in any 16 way?</p> <p>17 A. They are.</p> <p>18 Q. Is there any other boards in addition to the 19 advisory board?</p> <p>20 A. No.</p> <p>21 Q. Is there an executive board?</p> <p>22 A. Myself and my husband are officers.</p> <p>23 Q. Is there a management team that you look to as 24 president to deal with the immediate management of --</p> <p>25 A. Absolutely.</p>
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<p>1 Q. And who sits on the advisory board?</p> <p>2 A. Gary Hokkanen.</p> <p>3 Q. And who is Mr. Hokkanen?</p> <p>4 A. How do you want me to describe Mr. Hokkanen?</p> <p>5 Q. What does he do for work?</p> <p>6 A. Gary Hokkanen has his own business, and he's a 7 consultant to private companies.</p> <p>8 Q. Okay. And who else is on the advisory board?</p> <p>9 A. Russ Nicholas.</p> <p>10 Q. And who is he?</p> <p>11 A. A partner at Deloitte &amp; Touche.</p> <p>12 Q. That's an outside auditor?</p> <p>13 A. Mm-hmm.</p> <p>14 Q. But not your outside auditor?</p> <p>15 A. At the time, not, no. They do our tax work 16 today, but at the time we had no business affiliation.</p> <p>17 Q. Are they your outside auditor today?</p> <p>18 A. No.</p> <p>19 Q. Who else is on the advisory board?</p> <p>20 A. Mike Helgeson.</p> <p>21 Q. And what is his business?</p> <p>22 A. He, at the time, or is currently still the 23 president and owner of Gold'n Plump Chicken, a broiler 24 operation in Minnesota.</p> <p>25 Q. And who else?</p>	<p>1 Q. And who is that?</p> <p>2 A. Steve. Today? What period of time?</p> <p>3 Q. Yeah, through -- starting in '05 and through 4 today.</p> <p>5 A. Would you like me to list every change of --</p> <p>6 Q. No. I'm just -- maybe generally described the 7 management team, as you probably have identified, in those 8 terms.</p> <p>9 A. There has always been a senior financial officer, 10 a senior sales leader, a senior operations.</p> <p>11 Q. So it's at the senior level?</p> <p>12 A. Mm-hmm.</p> <p>13 Q. Let me mark --</p> <p>14 A. And HR.</p> <p>15 Q. And HR. Let me mark Exhibit 2 to your 16 deposition. While I'm handing you this, I'm going to 17 represent that this is an organizational chart that we 18 found. There weren't many, if any, that were produced 19 other than this one, that we could find, so it's dated. 20 It's from 2000, but we can walk through it.</p> <p>21 A. So --</p> <p>22 (Exhibit Number 2 was marked for identification 23 by Mr. Patton.)</p> <p>24 BY MR. PATTON</p> <p>25 Q. What is Exhibit 2, if you know?</p>

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<p>1 A. It says it's an organization chart of 2 Sparboe Companies.</p> <p>3 Q. And was this chart maintained in the ordinary 4 course of Sparboe's business?</p> <p>5 A. This would have been a chart that would have been 6 while my father was president of the company.</p> <p>7 Q. Okay. And your father would have been president, 8 right?</p> <p>9 A. Correct.</p> <p>10 Q. Let's go through it this way. Position number 11 two is Ken Zachman?</p> <p>12 A. Mm-hmm.</p> <p>13 Q. Was he the controller and head of accounting?</p> <p>14 A. At the time, I presume. I'm trying to find him 15 on the org chart.</p> <p>16 MS. CRABTREE: Excuse me. This is 17 Molly Crabtree. Could we get the Bates number, please?</p> <p>18 MR. PATTON: SF123870.</p> <p>19 MS. CRABTREE: Thank you.</p> <p>20 BY MR. PATTON</p> <p>21 Q. How long was Mr. Zachman -- and again, focusing, 22 let's just say 2000 to 2010.</p> <p>23 A. Mm-hmm.</p> <p>24 Q. That's when all of these questions are going to 25 be about.</p>	<p>1 Q. And so they would be in charge of monitoring 2 costs, expenses, overhead --</p> <p>3 A. Mm-hmm.</p> <p>4 Q. -- sales --</p> <p>5 A. Yes.</p> <p>6 Q. -- profits and all of those things; is that 7 right?</p> <p>8 A. Yes.</p> <p>9 Q. If we go to position number three, administrative 10 assistant, who is Nita Nurmi?</p> <p>11 A. It was my father's administrative assistant.</p> <p>12 Q. Is she -- is it a woman?</p> <p>13 A. A woman, yes, Nita.</p> <p>14 Q. Nita, is she still with the company?</p> <p>15 A. She is.</p> <p>16 Q. And what are her duties and responsibilities?</p> <p>17 A. Today she runs our safety. She runs safety for 18 the company, and works inside of our HR department.</p> <p>19 Q. Is she your administrative assistant?</p> <p>20 A. No.</p> <p>21 Q. Do you have one?</p> <p>22 A. I do.</p> <p>23 Q. Who is that?</p> <p>24 A. Her name is Grace Hoke.</p> <p>25 Q. Grace Hoke, okay. Where we come into this</p>
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<p>1 A. Mm-hmm.</p> <p>2 Q. How long was Mr. Zachman the controller or the 3 head of accounting?</p> <p>4 A. I don't recall the exact date that he was no 5 longer the controller. I don't recall. It would have been 6 at some point in 2006 or something like that, '6 or '7.</p> <p>7 Q. And who replaced him?</p> <p>8 A. Craig Boesen.</p> <p>9 Q. And Mr. Zachman's responsibilities, what were 10 they?</p> <p>11 A. I can't -- I don't know specifically.</p> <p>12 Q. But he's in charge of monitoring the financials 13 of the company?</p> <p>14 A. I think, at this time, that was Cathy Dean's 15 role. She was brought in as a -- I don't know what year 16 this was from even.</p> <p>17 Q. 2000.</p> <p>18 A. I believe Cathy Dean had been -- I don't know 19 when she was hired.</p> <p>20 Q. Did Mr. Zachman, and then his replacement, 21 Mr. Boesen, was his responsibilities to generate the 22 monthly P&amp;L statements?</p> <p>23 A. Yes.</p> <p>24 Q. And also the annual financials?</p> <p>25 A. Yes.</p>	<p>1 position, human resources and legal, that indicates that 2 that's John Mueller, an attorney.</p> <p>3 A. Correct.</p> <p>4 Q. Do you see that?</p> <p>5 A. Mm-hmm.</p> <p>6 Q. When did Mr. Mueller start with the company?</p> <p>7 A. I don't know.</p> <p>8 Q. Well, at least before 2000?</p> <p>9 A. Mm-hmm.</p> <p>10 Q. Like --</p> <p>11 A. It looks like he was employed in 2000, so he was 12 here in 2000, yes.</p> <p>13 Q. And how long did he stay with the company?</p> <p>14 A. I think John left in 2006.</p> <p>15 Q. Why did he leave the company?</p> <p>16 A. I don't know. He didn't report to me at the 17 time.</p> <p>18 Q. But you were president at the time?</p> <p>19 A. I was. No, I was not president at the time.</p> <p>20 Q. In 2006?</p> <p>21 A. Mm-mm. For one year, I was not president of the 22 company.</p> <p>23 Q. Okay. Who was? So between October 5, 2005, I 24 thought you told me you became president in October.</p> <p>25 A. I did.</p>

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<p>1 Q. Okay. So --</p> <p>2 A. But in 200-- February of 2006, I brought in a</p> <p>3 president who was -- took the report of John.</p> <p>4 Q. Okay. Let's back up a little bit. You became</p> <p>5 president on October 5, 2005?</p> <p>6 A. Mm-hmm.</p> <p>7 Q. But then in February 2006 you brought in a</p> <p>8 president?</p> <p>9 A. I did.</p> <p>10 Q. Who was that individual?</p> <p>11 A. Jerry Kaminski.</p> <p>12 Q. And why did you bring him in?</p> <p>13 A. Because I had my hands full.</p> <p>14 Q. Okay. And how long did Mr. Kaminski stay as a</p> <p>15 president?</p> <p>16 A. About a year.</p> <p>17 Q. And he -- you replaced him?</p> <p>18 A. I took the position back.</p> <p>19 Q. And did he stay with the company?</p> <p>20 A. No, he left.</p> <p>21 Q. Okay. Now, you indicated Mr. Mueller left at</p> <p>22 some point, too?</p> <p>23 A. Mm-hmm, it was during Jerry Kaminski's tenure.</p> <p>24 Q. Did Mr. Kaminski terminate him?</p> <p>25 A. I believe so.</p>	<p>1 in-house legal counsel?</p> <p>2 A. I think in his role as legal counsel one of his</p> <p>3 duties was to address issues of permitting matters that</p> <p>4 have to do with compliance with state, you know.</p> <p>5 Q. State law compliance?</p> <p>6 A. Mm-hmm.</p> <p>7 Q. Environmental?</p> <p>8 A. Compliance, environmental.</p> <p>9 Q. And what was his duties and responsibilities with</p> <p>10 respect to human resources?</p> <p>11 A. I can't speak to -- I don't know specifically,</p> <p>12 because he didn't know, but he, I think he managed the</p> <p>13 human resource area, but I'm not -- he didn't report to me.</p> <p>14 I didn't -- I can't speak to -- I don't even know what his</p> <p>15 job description looked like at that time, so I can't really</p> <p>16 address that.</p> <p>17 Q. Okay. It indicates here that you were senior</p> <p>18 president of marketing and further processing, and that's</p> <p>19 the position you identified --</p> <p>20 A. Correct.</p> <p>21 Q. -- already for us?</p> <p>22 Now, there's also a position for Wayne Carlson?</p> <p>23 A. Mm-hmm.</p> <p>24 Q. And I'm trying to find it. He is the -- Wayne is</p> <p>25 number nine here, coordination manager. What was his</p>
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<p>1 Q. Do you know why?</p> <p>2 A. I don't.</p> <p>3 Q. You never heard of any reasons why Mr. Mueller</p> <p>4 was terminated?</p> <p>5 A. I just think Jerry was setting up his management</p> <p>6 team, and there were several changes during that time,</p> <p>7 including Greg Murch.</p> <p>8 Q. With also terminating Mr. Murch?</p> <p>9 A. Well, I mean, I'm just saying, he created his org</p> <p>10 structure at that time.</p> <p>11 Q. Was Mr. Murch terminated during this time period</p> <p>12 as well?</p> <p>13 A. I don't know that he was terminated, but his</p> <p>14 employment ended as well.</p> <p>15 Q. It indicates here that Mr. Mueller's</p> <p>16 responsibilities included human resources and legal. Can</p> <p>17 you explain the difference between those two positions?</p> <p>18 A. I can't, because of this -- he reported in to my</p> <p>19 father at the time.</p> <p>20 Q. Did Mr. Mueller also engage in additional roles</p> <p>21 besides simply being in-house legal counsel for Sparboe?</p> <p>22 A. Such as?</p> <p>23 Q. Well, I've seen that he has participated in UEP</p> <p>24 meetings. I see that he's been on committees for the UEP,</p> <p>25 so I'm curious, did he wear more than just a hat of being</p>	<p>1 responsibilities during this time period?</p> <p>2 A. Supply chain basically.</p> <p>3 Q. And what does that mean?</p> <p>4 A. I think, if you read this, you'll see it was</p> <p>5 making sure that eggs were in the right place at the right</p> <p>6 time.</p> <p>7 Q. Okay. Inventory control --</p> <p>8 A. Mm-hmm.</p> <p>9 Q. -- plant coordination, processing, warehousing --</p> <p>10 A. Yep.</p> <p>11 Q. -- shipping and receiving?</p> <p>12 Did he call on -- did he deal on marketing to</p> <p>13 customers at all?</p> <p>14 A. He would support our sales efforts in making sure</p> <p>15 we were able to deliver what we promised our customers. In</p> <p>16 other words, that we had the right eggs at the right farm</p> <p>17 to meet our customer demands.</p> <p>18 Q. And coordinate with the sales and marketing side?</p> <p>19 A. He just made it happen every day, when orders</p> <p>20 would come in, and he just made sure we had the eggs to</p> <p>21 serve the customers.</p> <p>22 Q. It also shows that --</p> <p>23 A. He also handled the freight.</p> <p>24 Q. Okay. I'm sorry. He reported to Mr. Murch?</p> <p>25 A. He did.</p>

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<p>1 Q. What was Mr. Murch's responsibilities?</p> <p>2 A. Vice pres, senior VP of all operations.</p> <p>3 Q. And --</p> <p>4 A. So he had the birds, the plants, and the supply chain.</p> <p>5 Q. And the sales?</p> <p>6 A. No.</p> <p>7 Q. So sales was separate from operations?</p> <p>8 A. In the -- with the exception of the longs and 10 shorts on the supply chain side.</p> <p>11 Q. Long and shorts. That's the purchase and sale?</p> <p>12 A. Correct.</p> <p>13 Q. So Mr. Carlson would --</p> <p>14 A. Moving eggs to the breaking plant, or it's -- 15 that would be his role.</p> <p>16 Q. When you say moving eggs to the breaking plant, 17 would that mean taking shell eggs and then moving them over 18 to the --</p> <p>19 A. Mm-hmm.</p> <p>20 Q. -- processing plant?</p> <p>21 A. Correct.</p> <p>22 Q. Would shell eggs that you would normally sell to 23 a customer could then --</p> <p>24 A. Mm-hmm.</p> <p>25 Q. -- could be taken --</p>	<p>1 A. A bank and an agency.</p> <p>2 Q. And what is Sparboe's relationship with the bank 3 and the agency?</p> <p>4 MR. HUTCHINSON: Objection to form.</p> <p>5 WITNESS: Sparboe --</p> <p>6 MR. HUTCHINSON: What time period?</p> <p>7 BY MR. PATTON</p> <p>8 Q. Let's start in 2000, in this time period.</p> <p>9 A. The Sparboe company had nothing to do with the 10 agency or the bank.</p> <p>11 Q. Why is a Center Bank and a Center Agency listed 12 on the organizational chart of Sparboe Companies?</p> <p>13 A. Because this is my father's org chart, but they 14 are completely separate entities, separate ownership.</p> <p>15 Q. What is the Center Bank?</p> <p>16 A. It's a national bank.</p> <p>17 Q. Where is it located?</p> <p>18 A. Litchfield, Minnesota.</p> <p>19 Q. And did Sparboe Companies have an interest in 20 the --</p> <p>21 A. None.</p> <p>22 Q. -- Center Bank?</p> <p>23 Is it true that at some point your father 24 purchased the Center Bank?</p> <p>25 A. He did. He owned it.</p>
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<p>1 A. Mm-hmm.</p> <p>2 Q. -- and moved to --</p> <p>3 A. Right.</p> <p>4 Q. I didn't --</p> <p>5 A. So --</p> <p>6 Q. I didn't ask that part. So Sparboe makes, 7 produces a shell egg, and it can either, that egg can 8 either go to a retail customer --</p> <p>9 A. Mm-hmm.</p> <p>10 Q. -- or it could be moved over into further 11 processing?</p> <p>12 A. Right. So if our customer normally orders ten 13 loads of eggs a day, a week, and they have an ad and they 14 order 20, he makes sure there's enough eggs at that plant 15 to make their 20 eggs, but the next week they're going to 16 only order five, so the extra five loads that are at that 17 farm normally have to be shifted somewhere else, so that, 18 that's a very key function in our ability to serve our 19 customer. Otherwise we wouldn't have the right eggs at the 20 right location to meet their demand, so that would have 21 been -- that was his role in the company, very important 22 role.</p> <p>23 Q. Now, the -- I'm going to get into your plants in 24 a minute here. It indicates here that there is a 25 Center Bank and a Center Agency. What does that refer to?</p>	<p>1 Q. He owned it? I actually went on the Center Bank web page, and I read something that in -- I'm going to 3 paraphrase, but at some point, maybe it was in the 50s 4 or 60s or something or in the 70s, the Center Bank was 5 going under, and so your father decided to, with some other 6 individuals, buy the bank.</p> <p>7 MR. HUTCHINSON: Objection to form.</p> <p>8 WITNESS: Not true.</p> <p>9 BY MR. PATTON</p> <p>10 Q. Okay. What happened?</p> <p>11 A. Regarding how he bought the bank?</p> <p>12 Q. Yeah.</p> <p>13 A. He was on the bank board. It was a First Bank 14 branch in Litchfield, and he had served on the bank board 15 for a number of years, and the bank holding company decided 16 to get out of the ag lending business and community banking 17 at that time, and this bank was slated as one of the banks 18 that was going to be divested, and he was able to purchase 19 the bank, and he did.</p> <p>20 Q. And did he own the bank personally or did 21 Sparboe Companies own the bank?</p> <p>22 A. Personally.</p> <p>23 Q. And the bank, over the years, has had members 24 who've also been on the board of directors for Sparboe, 25 right?</p>

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1           MR. HUTCHINSON: Objection to form. 2           WITNESS: Myself. 3 BY MR. PATTON 4   Q. Yeah, you, I know that. 5   A. Bob Sparboe. 6   Q. Bob Sparboe, yourself -- 7   A. Mm-hmm. 8   Q. -- Wayne Carlson have all sat on the board, and 9 Garth Sparboe have all sat on the board at the bank, right? 10   A. In recent years, yes. 11   Q. And do you have an ownership interest in that 12 bank? 13   A. No. 14   Q. Did you have an ownership interest? 15   A. Oh, I -- all directors have -- I personally 16 have -- yes, I have a small -- 17        MR. HUTCHINSON: Objection to form. Are you 18 asking -- who are you asking? Her as her individual 19 capacity? 20        MR. PATTON: As an individual witness, 21 whether she -- not in her 30(b)(6) capacity. 22        MR. HUTCHINSON: Okay. So you're not asking 23 her of Sparboe? 24 BY MR. PATTON 25   Q. I'm asking if Ms. Beth Schnell,	Page 70	Page 72 1 speculation. 2           WITNESS: Who owns what? 3 BY MR. PATTON 4   Q. The bank. 5   A. Robert Sparboe's estate. 6   Q. Okay. In its entirety? 7   A. With the exception of the shares that are owned 8 by the directors, which is 3 percent collectively, or less. 9   Q. Who are the beneficiaries of Mr. Sparboe's 10 estate? 11   A. How is this relevant? 12        MR. HUTCHINSON: It's not. 13 BY MR. PATTON 14   Q. Well, are you a beneficiary of Mr. Sparboe's 15 estate? 16   A. You know -- 17        MR. PATTON: I'm going to object. 18        WITNESS: I just don't understand how this 19 has anything to do with -- 20        MR. HUTCHINSON: I'm going to object to this 21 line of -- 22        WITNESS: -- what we're talking about, 23 but -- 24        COURT REPORTER: One at a time, please. 25        MR. HUTCHINSON: All right. Let me make my
1 Beth Sparboe Schnell -- 2   A. Mm-hmm. 3   Q. -- had or has an interest in the Center Bank. 4   A. Yeah. 5   Q. Yeah. 6   A. By law, I believe. I may not be correct on this, 7 but by law bank directors are obligated to have -- purchase 8 a share, so I purchased in 1987 a share. 9   Q. And when your father passed, and I apologize to 10 ask this again, but what happened to his interest in the -- 11   A. It's in a trust. 12   Q. And it's in a trust that went to family members? 13   A. Nope. It's in an estate. 14   Q. Okay. So an estate still owns Mr. Sparboe's 15 interest in the Center -- 16   A. Yes. 17   Q. -- in the bank? 18   A. Yes. 19   Q. And what about Garth Sparboe and Wayne Carlson? 20 Do they have a financial interest in the bank? 21   A. They each were required to buy one share, or 22 whatever the numbers of shares is. Every board director is 23 obligated to buy their -- a share of some percentage. 24   Q. Who owns the Center Bank today, if you know? 25   MR. HUTCHINSON: Objection; calls for	Page 71	Page 73 1 objection. I'm going to object to this as way outside the 2 scope of this litigation. She's already -- 3        THE WITNESS: I don't see that on here 4 anywhere. 5        MR. HUTCHINSON: She's already testified 6 that Sparboe Farms has no ownership interest in the bank, 7 so you don't have to answer these questions. 8        THE WITNESS: Thank you. 9 BY MR. PATTON 10   Q. Well, the organizational chart, the reason I'm 11 asking these is because you produced in this litigation an 12 organizational chart that shows that the Sparboe company 13 manages, operates, or has some relationship with the 14 Center Bank and the Center Agency. 15        I understand that perhaps Sparboe Companies 16 don't, but it's listed on an org chart, and so I will not 17 ask anymore questions about the bank other than I'd like to 18 know about the agency. If I could have just a description 19 of what the Center Agency is? 20   A. The agency was affiliated at the time with the 21 bank. 22   Q. Is that an insurance agency? 23   A. Correct. 24   Q. Okay. And did your father own an insurance 25 agency as well?

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<p>1 A. He did.</p> <p>2 Q. And is that owned today by his estate?</p> <p>3 A. No.</p> <p>4 Q. Who owns the Center Agency?</p> <p>5 A. My husband bought the agency out of the estate.</p> <p>6 Q. And he owns that with you?</p> <p>7 A. Today, yes.</p> <p>8 MR. PATTON: Okay. Now, how long have we been going? Maybe we should take a break.</p> <p>10 VIDEOGRAPHER: About an hour.</p> <p>11 MR. PATTON: Let's take a break.</p> <p>12 VIDEOGRAPHER: We are going off the record.</p> <p>13 The time is 10:19 a.m.</p> <p>14 (A break was taken.)</p> <p>15 VIDEOGRAPHER: We are back on the record.</p> <p>16 The time is 10:41 a.m.</p> <p>17 BY MR. PATTON</p> <p>18 Q. Okay. I'd like to change our focus now to the facilities or farms that Sparboe has.</p> <p>20 A. Mm-hmm.</p> <p>21 Q. And I'd like to focus again on the time period 2000 to 2010. Do you call them farms or facilities, so I know?</p> <p>24 A. We call them complexes.</p> <p>25 Q. Complexes, okay. Tell me what complexes Sparboe</p>	<p>1 the decade.</p> <p>2 Q. Where is Vincent located?</p> <p>3 A. Right across the street from Eagle.</p> <p>4 Q. And where is that?</p> <p>5 A. In Iowa, sorry.</p> <p>6 Q. So beginning in 2000, you had at least the Littlefield [sic], the Goodell, the Humboldt, the Hudson, and the Britt or New Horizon facility?</p> <p>9 A. And Eagle.</p> <p>10 Q. And Eagle, and then you built the Vincent facility when?</p> <p>12 A. Starting in about 2001.</p> <p>13 Q. And from that time, from 2001 to 2010, did you add any new complexes or eliminate any new complexes?</p> <p>15 A. No elimination, but we grew a lot.</p> <p>16 Q. And by grow a lot, what do you mean?</p> <p>17 A. Vincent was a green, what we call a green field. It started with nothing and it became --</p> <p>19 Q. And it's next door to the Eagle facility, correct?</p> <p>21 A. Correct, across the street.</p> <p>22 Q. Now, with respect to the Littlefield complexes, is that a shell egg or a further processing egg facility?</p> <p>24 A. Litchfield, and it's shell.</p> <p>25 Q. All shell?</p>
<p>1 had and where they were located.</p> <p>2 A. Our -- by name?</p> <p>3 Q. Yes, please.</p> <p>4 MR. HUTCHINSON: For what time period?</p> <p>5 BY MR. PATTON</p> <p>6 Q. Let's start in 2000, and hopefully they stayed the same, but if you've added a facility, I'd like to know.</p> <p>8 A. In Litchfield, Minnesota, we have a farm, a complex.</p> <p>10 Q. Complex?</p> <p>11 A. In Goodell, Iowa. In Humboldt, Iowa.</p> <p>12 In Hudson, Colorado. We have a complex that we have in Britt, Iowa.</p> <p>14 Q. Is that called the New Horizon?</p> <p>15 A. Mm-hmm.</p> <p>16 Q. Okay. Any more?</p> <p>17 A. Are you speaking, how -- define a -- so --</p> <p>18 Q. Well, if you look at this org chart, you'll see there's Litchfield, Goodell, Eagle, Hudson, and New Horizon, right?</p> <p>21 A. Where is that? I'm sorry. Oh, here.</p> <p>22 Q. Yeah.</p> <p>23 A. Okay, right, okay. So then Eagle Grove and Vincent were two locations that we had. We had Eagle Grove in 2000, and then we built -- Vincent came on board during</p>	<p>1 A. Yes.</p> <p>2 Q. Can you segregate these facilities into processing facilities or nonprocessing facilities?</p> <p>4 A. All the facilities are shell egg facilities with the exception of Vincent.</p> <p>6 Q. And that's a processing --</p> <p>7 A. That's -- it was both.</p> <p>8 Q. And you had indicated that you had acquired a processing facility in Iowa in the late '90s --</p> <p>10 A. Mm-hmm.</p> <p>11 Q. -- in order to start doing, processing eggs --</p> <p>12 A. Mm-hmm.</p> <p>13 Q. -- when your job responsibility changed?</p> <p>14 A. Yes.</p> <p>15 Q. And it was the Cal-Mar, did you say?</p> <p>16 A. Cal-Mar.</p> <p>17 Q. Cal-Mar?</p> <p>18 A. Cal-Mar Foods.</p> <p>19 Q. And what facility has that been --</p> <p>20 A. There are no chickens there. It's just a plant.</p> <p>21 Q. Oh, okay. Who supplies the Cal-Mar facility?</p> <p>22 A. We do.</p> <p>23 Q. Out of what facility? Out of what complex?</p> <p>24 A. All of them.</p> <p>25 Q. Okay. So all of the complexes, including the</p>

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1 Colorado one?	1 Q. About a million?
2 A. Not -- well, mostly Iowa and Minnesota.	2 A. No new barns there. During that period of time,
3 Q. So where is Cal-Mar?	3 probably about a million.
4 A. Well, it's in north, north central to	4 Q. And the Hudson, Colorado, facility?
5 northeastern Iowa.	5 A. We grew that facility, so the numbers were
6 Q. Iowa, and that's a processing facility, and so	6 different every year, so I am going to have to have you --
7 what you're saying is the Iowa plants and the Minnesota	7 Q. Well --
8 plants would ship eggs to that further --	8 A. How would you like me to answer the question?
9 A. Mm-hmm, mm-hmm.	9 Q. -- just I would say, on average what is the --
10 Q. -- processing facility and then they would be	10 by 2010 what was the theoretical number of layers you could
11 changed, sold as breaking eggs from there?	11 have at that facility?
12 A. Yes.	12 MR. HUTCHINSON: Objection to form.
13 Q. The Litchfield complex, how many layers,	13 WITNESS: I'm just trying to think of the
14 theatrically, how many layers can it hold?	14 year. I'm guessing that farm, just because I'm unclear on
15 A. About a million two.	15 when the construction began, that farm was about a million,
16 Q. And has that changed over time?	16 probably a million two in 2010.
17 A. Yeah, it's -- we've torn down. Yes, it's changed	17 BY MR. PATTON
18 over time.	18 Q. And --
19 Q. When I'm talking, I'm focusing on 2000 to 2010	19 A. And that's a guess. I have to tell you that's
20 only.	20 a -- I'm guessing.
21 A. Oh, no, it didn't change.	21 Q. That's Hudson we're talking about?
22 Q. And Goodell?	22 A. Colorado, yeah.
23 A. No, that -- I'm sorry, I need to just think. So	23 Q. And how many? Did you add additional farms over
24 could you rephrase your question about Litchfield?	24 the 2000 to 2010 time period?
25 Q. Yeah. My questions are, from the 2000 to 2010	25 A. Additional barns.
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1 time period, I want to understand what I would call the	1 Q. Barns?
2 theoretical capacity.	2 A. That's --
3 A. Yes.	3 MR. HUTCHINSON: Objection; vague as to --
4 Q. The maximum amount of birds that you can have	4 are you asking about Hudson?
5 laying hens, not what their actual population was.	5 MR. PATTON: Yes.
6 A. Okay.	6 WITNESS: So you're asking me if we added --
7 Q. So Litchfield, you had said --	7 I'm just trying to think. We did add barns, but I don't
8 A. Litchfield grew by 240,000 birds.	8 remember the year. I have to just tell you, I can't recall
9 Q. Over the time period?	9 the specific year we added a number of birds there.
10 A. Mm-hmm.	10 BY MR. PATTON
11 Q. So it -- but what's its maximum theoretical	11 Q. Okay. And the New Horizon, where is that located
12 capacity as of 2010? Let's do it that way.	12 again?
13 A. It was about a million --	13 A. In Britt, Iowa.
14 Q. -- two?	14 Q. Britt, Iowa, and what's its theoretical capacity?
15 A. -- two.	15 MR. HUTCHINSON: Objection to form. You can
16 Q. And initially in 2001, it was at one?	16 answer, if you understand.
17 A. Something like that, yeah.	17 WITNESS: It's approximately a million,
18 Q. And then the Goodell, Iowa, facility?	18 million two.
19 A. That has not grown, and that farm is also about a	19 BY MR. PATTON
20 million.	20 Q. And then the Eagle facility?
21 Q. One million?	21 A. Same, about a million two.
22 A. A million.	22 Q. And the Vincent facility is one that you added
23 Q. Humboldt, same question.	23 for processing in 2001?
24 A. I don't recall the specific number of birds	24 A. We did, yep, the Vincent. Are you asking --
25 there. That has not -- we have not added layers there.	25 what's your question?

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<p>1 Q. You added it in 2001, correct?</p> <p>2 A. Mm-hmm, over time.</p> <p>3 Q. And it was primarily for processing, is that --</p> <p>4 A. It was split 50-50, about 50-50.</p> <p>5 Q. How many layers at the facility, when it --</p> <p>6 A. About 2.4.</p> <p>7 Q. 2.4 million layers?</p> <p>8 A. Mm-hmm.</p> <p>9 Q. And has that changed over time at the Vincent 10 facility?</p> <p>11 A. Not between -- I'm trying to think of the dates.</p> <p>12 Q. What regions does the Littlefield or did the 13 Littlefield complex apply?</p> <p>14 MR. HUTCHINSON: Objection to form.</p> <p>15 WITNESS: That would be difficult to answer.</p> <p>16 MR. HUTCHINSON: Just for the record, I'm 17 not familiar with a Littlefield.</p> <p>18 BY MR. PATTON</p> <p>19 Q. I'm sorry, Litchfield.</p> <p>20 Let me -- maybe I can go at it this way. I'm 21 trying to understand the regions in which Sparboe sells 22 eggs in the United States during the 2000 to 2010 time 23 period.</p> <p>24 A. Mm-hmm.</p> <p>25 Q. For instance, what regions in the United States</p>	<p>1 A. So where our truck would deliver to a customer in 2 that state?</p> <p>3 Q. Yeah.</p> <p>4 A. Kansas.</p> <p>5 Q. Kansas is the only state?</p> <p>6 A. No, there would be others.</p> <p>7 Q. What other states?</p> <p>8 A. So could you define, is the question where we 9 take, sell an egg, sell eggs --</p> <p>10 Q. Yeah, I'm --</p> <p>11 A. -- and take and invoice a customer in a specific 12 state?</p> <p>13 Q. Well --</p> <p>14 A. I mean, is that what you're -- I'm just curious.</p> <p>15 Q. Yeah, I'm -- the reason I'm -- I don't want to 16 spend a lot of time on this, but what I'm trying to say is, 17 I know that you ship eggs, but you probably also use 18 distributors, right?</p> <p>19 A. Right.</p> <p>20 Q. And you don't know where the distributors end up 21 selling or supplying their eggs?</p> <p>22 MR. HUTCHINSON: Objection.</p> <p>23 WITNESS: No. I think your question was do 24 we invoice or sell customers our eggs, where we knowingly 25 ship eggs into a state.</p>
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<p>1 did Sparboe supply?</p> <p>2 A. It would vary by year.</p> <p>3 Q. Okay. Can you tell me from in 2000?</p> <p>4 A. At which farm?</p> <p>5 Q. Well, just all of Sparboe's supplies. Does it 6 sell -- let's say states. Did it sell to New Jersey? To 7 Massachusetts? Are there states that it supplied eggs 8 into?</p> <p>9 A. I can't tell you by state by year. I wouldn't be 10 able to remember that.</p> <p>11 Q. Well, how about by complex? Does the Litchfield 12 complex supply a certain region that Sparboe sells to?</p> <p>13 A. It would possibly change, depending on the year 14 or the customer, so it wouldn't be specific in any given 15 year.</p> <p>16 Q. Within -- what I'm struggling with is in this 17 Sparboe, for instance, are there certain states that 18 Sparboe never sold eggs into?</p> <p>19 A. Yeah, absolutely.</p> <p>20 Q. And which ones are those during the 2000 to 2010 21 time period?</p> <p>22 A. So could you define selling eggs into?</p> <p>23 Q. Yeah, let's start with shell eggs.</p> <p>24 A. Right, but define selling eggs into.</p> <p>25 Q. Supply a retailer and that's --</p>	<p>1 BY MR. PATTON</p> <p>2 Q. Between the time period 2000 and 2010, what are 3 the major markets that Sparboe sold eggs into?</p> <p>4 A. Iowa, Wisconsin, North and South Dakota, 5 Colorado.</p> <p>6 Q. All right.</p> <p>7 A. Wyoming, California. There are many states.</p> <p>8 Q. Okay. Are there limitations upon the way that -- 9 are there limitations upon the nature of eggs, i.e. the 10 freight or the costs to ship them, that limit how far you 11 can ship them?</p> <p>12 A. Are there limitations on freight? You mean, 13 physically, are you speaking?</p> <p>14 Q. Are there financial limitations that make it cost 15 prohibitive for Sparboe to supply eggs, for instance, to 16 the northeast?</p> <p>17 A. Well, freight is a factor.</p> <p>18 Q. All right. What other factors?</p> <p>19 A. I guess freight is probably the biggest, or the 20 customers' opportunity to buy from other suppliers more 21 cheaply.</p> <p>22 Q. And the identify of competitors in certain 23 markets?</p> <p>24 A. Yeah, I would say.</p> <p>25 Q. How is freight a limitation?</p>

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1 A. If it's a full truck load or a partial truck 2 load, if there are lanes that are efficient or, you know, 3 you've got a distribution center that's in a difficult 4 place for them to get a backhaul out of.  5 Q. From what facility did Sparboe serve the 6 California market?  7 A. Over those ten years, probably every facility. 8 Q. And how would you serve, how would eggs go from 9 Colorado to California? By truck?  10 A. Mm-hmm, yes. 11 Q. And are those refrigerated trucks? 12 A. Yes. 13 Q. What were the customers in California that you 14 were supplying during that time period? 15 A. I don't have a list. 16 Q. All right. Do you have an idea of what 17 retailers? 18 A. Target. 19 Q. I'll start a new page. California is Target? 20 A. Mm-hmm. 21 Q. What other retailers did you supply in 22 California? 23 A. That's probably all we had. 24 Q. What about South Dakota? What retailers? 25 A. Nash Finch.	1 Q. All right. And what about a company called 2 Conopco? 3 A. Who? 4 Q. Unilever? 5 A. No. 6 Q. Did you ever sell to Winn-Dixie? 7 A. No. 8 Q. How about HEB? 9 A. No. 10 Q. They're in Texas primarily, right? 11 A. Mm-hmm. 12 Q. Are you aware they have essentially a sole source 13 supply contract with Cal-Maine? 14 A. I did not know that. 15 Q. How about Supervalu? 16 A. Yes. 17 Q. You supplied them in Minnesota? 18 A. Mm-hmm. 19 Q. General Mills? 20 A. No. 21 Q. Giant Eagle? 22 A. No. 23 Q. Kellogg? 24 A. No. 25 Q. Kraft?
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1 Q. In Iowa? 2 A. Hy-Vee. 3 Q. Any other? 4 A. Oh, yeah. I mean, would you like a list of all 5 of our customers in Iowa? 6 Q. Well, particularly some of the plaintiffs in this 7 case, is what I would be interested in. And in Colorado 8 what major retailers would you supply? 9 MR. HUTCHINSON: Objection to form. 10 WITNESS: At what point in time? 11 BY MR. PATTON 12 Q. At any point in time. 13 A. Retailers. 14 Q. Grocery retailers? 15 A. We supplied for a brief period of time in, I 16 believe in the 2000s, Sam's Club, Albertsons. That's all I 17 recall. 18 Q. And who in Wisconsin? 19 A. Woodman's. 20 Q. And did you supply Kroger at all? 21 A. No. 22 Q. Did you supply A&P? 23 A. No. 24 Q. Did you supply Safeway? 25 A. No. We weren't able to for many of those years.	1 A. I don't believe so. 2 Q. Nestle? 3 A. No. 4 Q. Publix? 5 A. (Shakes head.) 6 Q. Roundy's? 7 A. No. 8 Q. Waldron? 9 A. No. 10 Q. Winn-Dixie? 11 A. No. 12 Q. So not at all during the 2000 to 2000 [sic] time 13 period did you sell to those customers? 14 A. Many of those customers required UEP 15 certification, and we didn't have the UEP certification, so 16 we couldn't. 17 Q. We'll get to that. But my point is, let's say 18 prior to the 2000 to 2005 time period, you never sold to 19 those companies, right? 20 A. I don't recall. I don't think so. 21 Q. And then after 2005 you never sold to those 22 companies, right? 23 A. Not directly. 24 Q. And have you ever supplied eggs into Texas? 25 A. To Target.

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1 Q. In Texas?	1 A. Yes.
2 A. Yep, mm-hmm.	2 Q. Was Michael Foods a competitor?
3 Q. Who are your major -- who are Sparboe's major	3 A. Yes.
4 competitors?	4 Q. Daybreak?
5 A. In what products and in what time?	5 A. In what markets? What products? Are you asking
6 Q. Shell eggs, 2000 to 2010.	6 shell eggs?
7 MR. HUTCHINSON: Objection to form, and I'll	7 Q. Shell.
8 object to the extent that it calls for a legal conclusion.	8 A. In 2000 to 2010, I don't know that I would
9 WITNESS: So could you please clarify the	9 consider Daybreak a competitor at that time.
10 question for me?	10 Q. How about Hillandale?
11 BY MR. PATTON	11 A. Yes.
12 Q. Sure. Do you know what a competitor is?	12 Q. Is a competitor Souder?
13 A. I do.	13 A. Not a competitor of ours.
14 Q. Would you consider, for instance, Cal-Maine to be	14 Q. Midwest Poultry?
15 a competitor of Sparboe's?	15 A. I suspect they would be considered a competitor.
16 A. I believe so.	16 Q. Now, following 2000 and the time period
17 Q. And in what markets?	17 after 2010, did Sparboe eliminate or sell any of these
18 A. Texas.	18 plants?
19 Q. Any particular regions of Texas?	19 A. Yes.
20 A. No.	20 Q. Which plants?
21 Q. And that's the only state?	21 A. Vincent and Eagle Grove.
22 A. No, I -- Cal-Maine is everywhere. They're in the	22 Q. And why did Sparboe sell those plants?
23 egg business and we're in the egg business.	23 A. Because we were not able to sell the eggs
24 Q. Right. So other than the states you've	24 profitably.
25 identified, Iowa, Wisconsin, North Dakota, South Dakota,	25 Q. Did something happen in 2011 that reduced
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1 Colorado, Wyoming, and California, are there any other	1 Sparboe's sales?
2 states --	2 A. Yes.
3 A. Yes.	3 Q. What was that?
4 Q. -- that you supply into?	4 A. We lost many customers.
5 A. Yes.	5 Q. Because of the ABC 20/20 report?
6 Q. Which ones?	6 A. Correct.
7 A. Now, today or --	7 Q. And because of the FDA salmonella finding?
8 Q. During 2000 and 2010.	8 A. I suspect there were many reasons.
9 A. So you're asking me what states did we ship eggs	9 Q. What were the reasons?
10 into and sell to customers in during that ten-year period	10 A. Largely the story. The 20/20 story.
11 of time?	11 Q. And what customers did you lose?
12 Q. Either through a distributor or on your own.	12 A. Target.
13 A. I'm not prepared to answer that question.	13 Q. McDonald's?
14 Q. So there may be more states other than Iowa,	14 A. McDonald's.
15 Wisconsin, North Dakota, and South Dakota?	15 Q. Other retailers?
16 A. I suspect so.	16 A. Yes.
17 Q. Illinois?	17 Q. Which retailers?
18 A. Yes.	18 A. Woodman's.
19 Q. So to the extent another egg supplier supplied	19 Q. Any more?
20 eggs in those states, would you consider them a competitor?	20 A. At what specific date?
21 A. Yes.	21 Q. After the November 16, 2011 --
22 Q. So for instance, Moark, would that be a	22 A. But how long after that?
23 competitor?	23 Q. Well, anytime after that.
24 A. Yes.	24 Hy-Vee was a customer that you lost, right?
25 Q. Rose Acre?	25 A. We did.

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<p>1 Q. And you know that Hy-Vee actually wanted to stick 2 with Sparboe, did it not?</p> <p>3 MR. HUTCHINSON: Objection to form.</p> <p>4 WITNESS: I don't know that.</p> <p>5 BY MR. PATTON</p> <p>6 Q. And are you aware that Hy-Vee actually conducted 7 a visit of one of your facilities, and at that point found 8 it to not be -- found the conditions not to be acceptable, 9 and then it discontinued its purchases from Sparboe?</p> <p>10 A. I'm aware that Hy-Vee made a visit to our farm. 11 I'm aware that Hy-Vee conducted an RFP for their egg 12 business, and we lost their business.</p> <p>13 Q. And that was after the 2011 ABC news?</p> <p>14 A. Yes.</p> <p>15 Q. What other customers in addition to McDonald's 16 and Target did Sparboe lose, was not able to make sales to 17 anymore after exposure of that?</p> <p>18 A. Cargill, Michael Foods.</p> <p>19 Q. Supervalu?</p> <p>20 A. No, Supervalu bought eggs from us. They 21 discontinued us briefly, and we were able to -- we got 22 their business back.</p> <p>23 Q. What were the revenues in 200-- how did the 24 revenues following the ABC news break compare with the 25 revenues prior to that day?</p>	<p>1 salmonella. Do you remember that?</p> <p>2 MR. HUTCHINSON: Objection to form. That 3 assumes facts not in evidence.</p> <p>4 WITNESS: I don't agree with that.</p> <p>5 BY MR. PATTON</p> <p>6 Q. But do you remember the FDA making a finding at 7 or about the same time the ABC news story broke?</p> <p>8 MR. HUTCHINSON: Objection. Same objection.</p> <p>9 WITNESS: Do I remember the FDA making a 10 finding, no.</p> <p>11 BY MR. PATTON</p> <p>12 Q. Or issuing findings in November of 2011 as well?</p> <p>13 MR. HUTCHINSON: Same objection.</p> <p>14 WITNESS: I remember the FDA generating a 15 letter that was made available to 20/20 at that same time.</p> <p>16 BY MR. PATTON</p> <p>17 Q. How does Sparboe generally set its prices for 18 eggs --</p> <p>19 A. Can I just --</p> <p>20 Q. -- for shell eggs?</p> <p>21 MR. HUTCHINSON: Objection; vague.</p> <p>22 WITNESS: I'd like to just go back. May I 23 add something to my last statement?</p> <p>24 MR. HUTCHINSON: Of course.</p> <p>25</p>
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<p>1 A. Devastatingly different.</p> <p>2 Q. And is that the reason you had to sell the 3 Vincent and Eagle facilities?</p> <p>4 A. Yes.</p> <p>5 Q. Who did you sell the Eagle and Vincent facilities 6 to?</p> <p>7 A. Daybreak.</p> <p>8 Q. Were you able to get a competitive price for it?</p> <p>9 A. It was a sale. I don't know. I'm not -- I don't 10 know. No, I don't -- I don't think so.</p> <p>11 Q. When you say devastating, what was the magnitude 12 of difference between the --</p> <p>13 A. I'm sorry?</p> <p>14 Q. -- the magnitude of the year prior and the year 15 after the ABC news break?</p> <p>16 A. Sparboe Farms was -- we were not able to sell 17 eggs to industry peers, companies that might normally trade 18 eggs back and forth. Our industry colleagues didn't buy 19 our eggs. Our customers wouldn't buy our eggs. It was -- 20 it was -- it was -- frankly, we're still dealing with that.</p> <p>21 Q. How about the FDA, the exposure of the FDA story 22 on the salmonella?</p> <p>23 And I'll get to that, but the FDA also found at 24 least several facilities that Sparboe was operating had not 25 instituted the correct procedures to protect against</p>	<p>1 BY MR. PATTON</p> <p>2 Q. Sure.</p> <p>3 A. So what the FDA did was drafted a letter relating 4 to audits that had taken place as long as seven months 5 prior, so there was no direct relationship to the letter 6 that was leaked to 20/20 and a finding at our farms, so I 7 just want to be clear about that.</p> <p>8 Q. Right. I have the letter.</p> <p>9 A. Okay.</p> <p>10 Q. And we can use it, but I understand that they --</p> <p>11 A. Yeah.</p> <p>12 Q. -- inspected several facilities in the May and 13 April time period, but the findings weren't issued until 14 November.</p> <p>15 A. Interestingly enough, the day before the 20/20 16 story.</p> <p>17 Q. But they were still similar findings, correct?</p> <p>18 MR. HUTCHINSON: Objection. Objection to 19 form.</p> <p>20 BY MR. PATTON</p> <p>21 Q. The findings were that there was lack of proper 22 procedures in place to protect against salmonella?</p> <p>23 MR. HUTCHINSON: Objection to form.</p> <p>24 WITNESS: No.</p> <p>25</p>

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<p>1 BY MR. PATTON</p> <p>2 Q. All right. Well, we don't -- when did Sparboe 3 join the UEP?</p> <p>4 A. I don't recall.</p> <p>5 Q. Had it been a member of the UEP for many years 6 back in the '50s, '60s, '70s?</p> <p>7 A. No.</p> <p>8 Q. '80s?</p> <p>9 A. I don't know when Sparboe Farms joined UEP.</p> <p>10 Q. Can you put it on a decade?</p> <p>11 MR. HUTCHINSON: Objection; asked and 12 answered.</p> <p>13 WITNESS: I don't -- I can't.</p> <p>14 BY MR. PATTON</p> <p>15 Q. Prior to 2000, it was a member?</p> <p>16 A. I believe so.</p> <p>17 Q. And was your dad always, or Mr. Sparboe, a 18 participant in UEP?</p> <p>19 A. No.</p> <p>20 Q. What is the UEP?</p> <p>21 A. It's a Capper-Volstead group. It's a cooperative 22 of egg farmers and the work they did and do is largely 23 around legislative matters and regulatory issues and 24 science-based research that the industry can benefit from 25 collectively.</p>	<p>1 effective July 2005, right?</p> <p>2 A. Mm-hmm.</p> <p>3 Q. Is that right?</p> <p>4 A. Yes.</p> <p>5 Q. And so from that time period, from when Sparboe 6 was a member of the UEP up until 2005, why was it a member 7 of the UEP?</p> <p>8 A. So are you asking specifically for the 2000 9 to 2005 period?</p> <p>10 Q. Yes.</p> <p>11 A. Well, I don't know why. I will -- I suspect, I 12 suspect that Sparboe Farms was -- I know Sparboe Farms was 13 very interested in being a part of the animal, the science 14 work that was being done around animal, animal densities, 15 and being aware of what was going on in Europe. The egg 16 industry was talking a lot about that, and making sure that 17 we were supporting what United Egg Producers was doing from 18 a science research base on the animal humane care 19 guidelines that were being developed.</p> <p>20 Q. Would Sparboe have -- was it in Sparboe's best 21 business interest to be a member of the UEP during that 22 time period?</p> <p>23 A. I don't know.</p> <p>24 Q. Well, would Sparboe have not been a member of 25 the UEP, if it didn't at least see some advantage of being</p>
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<p>1 Q. Did the UEP physically sell eggs, that you're 2 aware of?</p> <p>3 A. I don't think so.</p> <p>4 Q. Did the UEP ever deliver eggs to customers?</p> <p>5 A. Not that I'm aware of.</p> <p>6 Q. So let me -- I'll just keep this moving. Do you 7 recall that Bob Sparboe was a member of the board of 8 directors of the UEP in 2000?</p> <p>9 A. I have seen that in documents.</p> <p>10 Q. And are you aware that he was also a member of 11 the marketing committee beginning in 2000?</p> <p>12 A. I'm not -- I can't confirm that.</p> <p>13 Q. Let's mark some exhibits real quick.</p> <p>14 Why was Sparboe a member of the UEP?</p> <p>15 A. Initially, I can't answer. I don't know.</p> <p>16 Q. Was it in Sparboe's best interest, business 17 interest to be a member of the UEP, at least from the 18 period 2000 through 2007?</p> <p>19 MR. HUTCHINSON: Objection; vague.</p> <p>20 Are you asking her at that time or --</p> <p>21 MR. PATTON: Yeah.</p> <p>22 MR. HUTCHINSON: -- from her perspective 23 now?</p> <p>24 BY MR. PATTON</p> <p>25 Q. There came a point when Sparboe quit the UEP,</p>	<p>1 a member?</p> <p>2 MR. HUTCHINSON: Objection; vague.</p> <p>3 I think you're unclear.</p> <p>4 BY MR. PATTON</p> <p>5 Q. Did Sparboe see an advantage of being a member of 6 the UEP between 2000 and 2005?</p> <p>7 MR. HUTCHINSON: Objection; vague as to 8 time.</p> <p>9 WITNESS: I can't speak for Bob Sparboe.</p> <p>10 BY MR. PATTON</p> <p>11 Q. Okay. Well, you know that also Garth Sparboe, 12 yourself, and Wayne Carlson were members of various UEP 13 committees during that time period?</p> <p>14 A. Yes.</p> <p>15 Q. So you must have seen some advantage by being a 16 member of the UEP and participating on committees; isn't 17 that fair?</p> <p>18 A. I think that, I think it was important to know 19 what the research was being done, and Garth Sparboe became 20 very engaged in working with the animal care, the animal 21 welfare, I should call it, committee, and making sure that 22 the guidelines that were being developed by the scientific 23 committee were applicable to industry, and that we would be 24 able to effectively roll those out in all different kinds 25 of barns in a way that wouldn't be harmful to the birds</p>

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<p>1 or --</p> <p>2 Q. Garth was -- Garth Sparboe was an integral part 3 of the animal welfare program and the development of the 4 guidelines; isn't that right?</p> <p>5 MR. HUTCHINSON: Objection to form.</p> <p>6 WITNESS: Yeah, I don't know that, because I 7 didn't serve on that committee.</p> <p>8 BY MR. PATTON</p> <p>9 Q. Let's go through participation on the welfare 10 committee. You agree that Mr. Bob Sparboe was a member of 11 the board of directors during 1999 and 2000?</p> <p>12 A. I can't recall specifically.</p> <p>13 Q. Well, let's go through some documents then.</p> <p>14 A. Okay.</p> <p>15 (Exhibit Number 3 was marked for identification 16 by Mr. Patton.)</p> <p>17 BY MR. PATTON</p> <p>18 Q. I'm going to hand you what's been marked as 19 Exhibit 3. Take a look at Exhibit 3. This is a UEP 20 document.</p> <p>21 MR. HUTCHINSON: Do you have a copy?</p> <p>22 MR. PATTON: Oh, didn't I give you one?</p> <p>23 MR. HUTCHINSON: Thank you.</p> <p>24 BY MR. PATTON</p> <p>25 Q. Exhibit 3 are the minutes of a UEP board of</p>	<p>1 Q. And so presumably your father was aware in 2000 2 that a committee, the scientific advisory committee on 3 animal welfare had been developing a program?</p> <p>4 MR. HUTCHINSON: Objection; calls for 5 speculation.</p> <p>6 WITNESS: I don't know what my father was 7 aware of at that time.</p> <p>8 BY MR. PATTON</p> <p>9 Q. You have no reason to dispute that these minutes 10 are not accurate?</p> <p>11 A. No.</p> <p>12 Q. When you attended UEP meetings, did they endeavor 13 to take accurate minutes?</p> <p>14 A. I don't know.</p> <p>15 Q. You've reviewed committee minutes --</p> <p>16 A. Mm-hmm.</p> <p>17 Q. -- have you not?</p> <p>18 A. Some.</p> <p>19 Q. And you were, yourself, on the marketing 20 committee in 2004 and 2005?</p> <p>21 A. Briefly.</p> <p>22 Q. For two years, right?</p> <p>23 A. Briefly.</p> <p>24 Q. Are you aware that your dad, I'm sorry, 25 Mr. Sparboe, was also a member of the UEP marketing</p>
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<p>1 directors meeting dated February in Dallas. Do you see 2 that?</p> <p>3 A. Mm-hmm.</p> <p>4 Q. Yes?</p> <p>5 A. I see that.</p> <p>6 Q. And do you see that it lists Bob Sparboe as one 7 of the members of the board of directors?</p> <p>8 A. I see his name, yes.</p> <p>9 Q. And that indicates that he was a member of the 10 board of directors, does it not?</p> <p>11 A. I can't -- I can't testify to that because I 12 don't know anything about this document.</p> <p>13 Q. As the 30(b)(6) witness for Sparboe, one of the 14 subjects was its participation in the UEP. You don't have 15 any basis to --</p> <p>16 A. I just -- I don't have access to UEP's database 17 to see that Bob was a member. I believe Bob -- this states 18 that Bob was at that meeting, so . . .</p> <p>19 Q. And if you turn to the second page, it indicates 20 at this meeting, February of 2000, that the animal -- do 21 you see where it says animal welfare?</p> <p>22 A. Mm-hmm.</p> <p>23 Q. That the animal welfare committee had presented a 24 report on its findings, do you see that?</p> <p>25 A. Yes.</p>	<p>1 committee in 2000?</p> <p>2 A. I believe he was on a committee perhaps at that 3 time. I don't recall. May I see that document?</p> <p>4 Q. Sure.</p> <p>5 (Exhibit Number 4 was marked for identification 6 by Mr. Patton.)</p> <p>7 BY MR. PATTON</p> <p>8 Q. I'm going to hand you what's been marked as 9 Exhibit 4.</p> <p>10 MR. GREENE: For the benefit of the people 11 on the phone, if you could read the Bates numbers in.</p> <p>12 MS. CRABTREE: Yes, please.</p> <p>13 BY MR. PATTON</p> <p>14 Q. Yeah, I've handed you Exhibit 4, which 15 is UE0307864.</p> <p>16 MR. GREENE: What was the last number?</p> <p>17 MR. PATTON: Eight, six, four.</p> <p>18 MR. GREENE: We usually do the whole range, 19 but . . .</p> <p>20 BY MR. PATTON</p> <p>21 Q. This indicates, does it not -- well, let me have 22 you identify Exhibit 4 as a UEP marketing committee 23 meeting, and it identifies Bob Sparboe as a member as of 24 May 16, 2000?</p> <p>25 MR. HUTCHINSON: Objection to form.</p>

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<p>1 BY MR. PATTON</p> <p>2 Q. Do you see that?</p> <p>3 A. Mm-hmm.</p> <p>4 Q. On the front page there's a check next to his 5 name?</p> <p>6 A. Yes.</p> <p>7 Q. Do you have any reason to dispute that 8 Mr. Sparboe was not a member of the UEP marketing committee 9 as of this time period?</p> <p>10 A. I have no reason to confirm or dispute that he 11 was at this meeting.</p> <p>12 Q. And you have no reason to dispute that he was a 13 member of the marketing committee either, right?</p> <p>14 A. No.</p> <p>15 Q. All right. Now, were you aware that as early 16 as 2000 the UEP marketing committee would encourage its 17 members to reduce their flocks by 5 percent and accelerate 18 or engage in molts?</p> <p>19 A. I was aware of that.</p> <p>20 Q. Are you on page 7870?</p> <p>21 A. Mm-hmm.</p> <p>22 Q. Yes?</p> <p>23 A. Yes.</p> <p>24 Q. And do you see that the marketing committee 25 approved the following plan of action on December 19 for</p>	<p>1 A. So I don't know which is which.</p> <p>2 Q. Is it possible that Mr. Sparboe didn't attend the 3 Dallas meeting?</p> <p>4 A. I can't confirm specifically which meeting 5 Mr. Sparboe attended.</p> <p>6 Q. But he was a member of the marketing committee 7 in 2000, right?</p> <p>8 A. This document states that he was a member of the 9 marketing committee, at least on the Washington document.</p> <p>10 Q. Okay. Are you aware that Garth Sparboe was a 11 member of the government relations committee of the UEP 12 beginning in 2001?</p> <p>13 A. May I see that? Sorry, I -- you know, these 14 are --</p> <p>15 Q. I'm happy to do it.</p> <p>16 A. It was a long time ago.</p> <p>17 (Exhibit Number 5 was marked for identification 18 by Mr. Patton.)</p> <p>19 BY MR. PATTON</p> <p>20 Q. So let me hand you what's been marked as 21 Exhibit 5 to your deposition, and it bears Bates 22 stamp UE0308215.</p> <p>23 A. Okay.</p> <p>24 Q. And my questions will be that, can you, as 25 the 30(b)(6) witness of Sparboe, confirm that</p>
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<p>1 the year 2000?</p> <p>2 A. Mm-hmm.</p> <p>3 Q. By no later than June 1 each member should reduce 4 their flocks by 5 percent and --</p> <p>5 MR. HUTCHINSON: I'm going to object to 6 your -- I'm sorry.</p> <p>7 MR. PATTON: I didn't finish my question.</p> <p>8 MR. HUTCHINSON: I'm sorry, Doug.</p> <p>9 BY MR. PATTON</p> <p>10 Q. -- and maintain it through July 1 and that by no 11 later than January 1 each member should molt 5 percent of 12 their flock. Do you see that?</p> <p>13 MR. HUTCHINSON: I'm going to object to your 14 characterization of this document. I don't see 15 Mr. Sparboe's name on the minutes.</p> <p>16 THE WITNESS: Right.</p> <p>17 MR. HUTCHINSON: Maybe I'm missing it.</p> <p>18 WITNESS: No, he -- it's not that he -- it 19 doesn't state that he was at the meeting.</p> <p>20 BY MR. PATTON</p> <p>21 Q. All right. But he was --</p> <p>22 A. He is listed as a committee member, but it 23 doesn't -- this is identified as Washington and this is 24 identified as Dallas.</p> <p>25 Q. Right.</p>	<p>1 Mr. Garth Sparboe was a member of the government relations 2 committee, that Mr. Bob Sparboe was a member of the quality 3 assurance committee, and then Mr. Garth Sparboe was a 4 member of the UEP producer committee for animal welfare --</p> <p>5 MR. HUTCHINSON: Objection to form.</p> <p>6 BY MR. PATTON</p> <p>7 Q. -- as of 2001? And I can show you, if you want 8 to follow me to page, I'm sorry, page 218, Bates numbers 9 ending 218.</p> <p>10 A. Okay. Oh, gosh, sorry.</p> <p>11 Q. Do you see that's the government relations 12 committee?</p> <p>13 A. Yes.</p> <p>14 Q. If you turn the page, you'll see Mr. Sparboe's 15 name, Garth Sparboe?</p> <p>16 A. Yes, I see that.</p> <p>17 Q. If you turn to page 22- -- I'm sorry, 230.</p> <p>18 A. 230?</p> <p>19 Q. That's the quality assurance committee, and if 20 you turn the page, you'll see Bob Sparboe's name?</p> <p>21 A. Bob Sparboe, yes.</p> <p>22 Q. Was quality assurance and food safety an 23 important concern of Mr. Bob Sparboe?</p> <p>24 A. I -- I don't know why he was on that particular 25 committee, but of course quality and food safety are</p>

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<p>1 important to our company, yes.</p> <p>2 Q. And if you look at the last, the page 232,</p> <p>3 there's the animal welfare committee, and you see</p> <p>4 Garth Sparboe listed there as well?</p> <p>5 A. Yes.</p> <p>6 Q. Correct?</p> <p>7 A. Yes.</p> <p>8 Q. Now, if you turn the page to the last page,</p> <p>9 you'll see the name Don Bell. Do you know who Don Bell is?</p> <p>10 A. I do.</p> <p>11 Q. He's on the scientific advisory committee?</p> <p>12 A. Yes.</p> <p>13 Q. And Mr. Bell had advised Sparboe from time to</p> <p>14 time on economic issues, had he not?</p> <p>15 A. I wouldn't confirm. I don't know.</p> <p>16 Q. Do you know whether, do you have a recollection</p> <p>17 if Mr. Bell actually advised Sparboe on the virtues of</p> <p>18 forced molting?</p> <p>19 A. I don't recall.</p> <p>20 Q. Let me ask you, if you were aware that in 2002</p> <p>21 Mr. Garth Sparboe continued on the government relations</p> <p>22 committee, that Mr. Bob Sparboe also served on the quality</p> <p>23 assurance committee, and Garth Sparboe also continued to</p> <p>24 serve on the animal welfare committee, is that consistent</p> <p>25 with your recollection?</p>	<p>1 MR. HUTCHINSON: Objection to form.</p> <p>2 WITNESS: I will confirm that their names</p> <p>3 are on these lists.</p> <p>4 BY MR. PATTON</p> <p>5 Q. So you, as Sparboe's 30(b)(6) witness, you're not</p> <p>6 able to testify as to the membership of Bob Sparboe,</p> <p>7 Garth Sparboe, and other individuals' participation on</p> <p>8 UEP's committees?</p> <p>9 MR. HUTCHINSON: Objection to form.</p> <p>10 WITNESS: I think it's the term of</p> <p>11 participation.</p> <p>12 BY MR. PATTON</p> <p>13 Q. Okay. What's on these were listed as members of</p> <p>14 these committees?</p> <p>15 A. Mm-hmm.</p> <p>16 Q. Do you dispute that?</p> <p>17 A. No, I said that. I confirm that they're listed</p> <p>18 as members of these committees.</p> <p>19 Q. Right. And then 2004, are you aware that</p> <p>20 Wayne Carlson became a member of the USEM?</p> <p>21 A. Yes.</p> <p>22 Q. And do you know what the USEM is?</p> <p>23 A. U.S. Egg Marketers.</p> <p>24 Q. All right. And then Sparboe had participated</p> <p>25 in -- as a member of the USEM and participated -- strike</p>
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<p>1 A. May I see those?</p> <p>2 Q. Okay.</p> <p>3 (Exhibit Number 6 was marked for identification</p> <p>4 by Mr. Patton.)</p> <p>5 BY MR. PATTON</p> <p>6 Q. I'm going to hand you what's been marked as</p> <p>7 Exhibit 6 to your deposition, and it's a document bearing</p> <p>8 Bates Number CM00414891. Turn to page CM0414895.</p> <p>9 A. Yeah.</p> <p>10 Q. Ending in 95, you'll see that Garth Sparboe is a</p> <p>11 member of the government relations committee?</p> <p>12 A. I see that.</p> <p>13 Q. Turn to page 904, you'll see Bob Sparboe on the</p> <p>14 quality assurance committee?</p> <p>15 A. Excuse me, 904.</p> <p>16 Q. And if you turn to the welfare committee on 905,</p> <p>17 you'll see that it also lists Mr. Sparboe, Garth Sparboe,</p> <p>18 as a member on the welfare committee, right?</p> <p>19 A. There it is, yes.</p> <p>20 Q. Yes, and that's consistent, is it not?</p> <p>21 A. With the previous year.</p> <p>22 Q. Yeah. And as Sparboe's 30(b)(6) witness, you</p> <p>23 don't dispute the accuracy or the fact that these, that</p> <p>24 Mr. Sparboe and Mister -- both Mr. Bob Sparboe and</p> <p>25 Garth Sparboe were members of these committees?</p>	<p>1 that.</p> <p>2 Sparboe was a member of the USEM, right?</p> <p>3 A. Yes.</p> <p>4 Q. And it had been, at least starting in 2000?</p> <p>5 A. I don't know the beginning date of when we were</p> <p>6 members of U.S. Egg Marketers.</p> <p>7 Q. And as a participant in the U.S. Egg Marketers,</p> <p>8 Sparboe exported markets out of the United States; is that</p> <p>9 right?</p> <p>10 A. Yes.</p> <p>11 Q. And it did that through the USEM?</p> <p>12 A. Correct.</p> <p>13 Q. And did it pay dues into the USEM?</p> <p>14 A. I don't know.</p> <p>15 Q. In 2004, how would we find that out? Is there</p> <p>16 records of dues paid?</p> <p>17 A. I would believe so, yes.</p> <p>18 Q. And would those be hard to find?</p> <p>19 A. No, I don't think so.</p> <p>20 Q. And as far as dues that Sparboe paid to the UEP,</p> <p>21 would there be records of those dues also?</p> <p>22 A. It depends on how far back our records are.</p> <p>23 Q. Okay. Do you have a rough idea of how much you</p> <p>24 paid as a member of UEP?</p> <p>25 A. I do not.</p>

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1 Q. Do you know how --	1 VIDEOGRAPHER: We are back on the record.
2 MR. HUTCHINSON: Objection to form.	2 This marks the beginning of videotape number
3 BY MR. PATTON	3 two in the deposition of Beth Schnell.
4 Q. Are you aware, at least that when Sparboe	4 The time is 11:45 a.m.
5 rejoined the UEP in 2007, its dues were about \$35,000 a	5 BY MR. PATTON
6 year?	6 Q. Ms. Schnell, I've placed in front of you
7 A. In 2007?	7 Exhibit 7, and it is, it bears Bates Number NL0000085, and
8 Q. Yeah.	8 it is committee appointments for 2004 for the
9 A. That sounds about right.	9 United Egg Producers. Do you see that?
10 Q. So would you think that during the 2000-2005 time	10 A. I do.
11 period Sparboe paid roughly around \$30,000, \$35,000 a year	11 Q. And you became a member of the marketing
12 to be a member of the UEP?	12 committee, did you not, in 2004?
13 MR. HUTCHINSON: Objection to form.	13 A. I did.
14 WITNESS: I can't confirm that.	14 Q. And do you see your name listed as a member?
15 BY MR. PATTON	15 A. Yes.
16 Q. Do you know how dues at the UEP are assessed? Is	16 Q. And how was it that -- or why did you join the
17 it based on market share?	17 marketing committee?
18 A. I don't recall specifically.	18 A. I was asked to join.
19 Q. Is it based on sales?	19 Q. By whom?
20 A. I think it's --	20 A. By UEP, I believe.
21 MR. HUTCHINSON: Objection to form.	21 Q. And did you refuse?
22 WITNESS: I don't know.	22 A. No. I went to a meeting.
23 BY MR. PATTON	23 Q. Who from the UEP asked you to join?
24 Q. You have no idea how dues --	24 A. I think I was invited by Gene Gregory.
25 MR. HUTCHINSON: Objection; asked and	25 Q. And Mr. Gregory's position was what?
Page 115	Page 117
1 answered.	1 A. Vice president at the time.
2 BY MR. PATTON	2 Q. He worked with Al Pope [phonetic]?
3 Q. Do you have an understanding how the UEP	3 A. Yes.
4 determined the dues that Sparboe paid as a --	4 Q. And if you turn, what do you understand your
5 A. At which time?	5 duties and responsibilities to be on the marketing
6 Q. From 2000 to 2005.	6 committee?
7 MR. HUTCHINSON: Same objection.	7 A. I really wasn't sure. I wasn't a member. I
8 And remember to wait until Mr. Patton is	8 hadn't gone to a lot of UEP meetings, and I really wasn't
9 done --	9 sure, to be honest, what the responsibility was.
10 THE WITNESS: Okay.	10 Q. Did you consult with anybody within Sparboe to
11 MR. HUTCHINSON: -- speaking to start	11 determine what your responsibilities were?
12 answering.	12 A. No. I think at that time we thought it would be
13 WITNESS: I believe dues are assessed based	13 important to learn, I mean, to learn about what was going
14 on your bird population.	14 on, and I didn't really understand specifically what the
15 BY MR. PATTON	15 committee did at the time.
16 Q. Okay. So the number of the flock size?	16 Q. Well, because Mr. Sparboe had been on the
17 A. Correct.	17 committee, so I'm curious --
18 Q. Bigger the flock, the bigger the dues?	18 A. Right, right.
19 A. I -- I -- there may -- I -- I don't know.	19 Q. -- if you conferred with him.
20 MR. PATTON: Okay. We can take a break.	20 A. My guess is, I was asked to replace him after he
21 VIDEOGRAPHER: We are going off the record.	21 didn't participate.
22 The time is 11:26 a.m.	22 Q. Now, if you turn to NL0000098, you'll see
23 (A break was taken.)	23 Mr. Mueller's name --
24 (Exhibit Number 7 was marked for identification	24 A. Yes.
25 by Mr. Patton.)	25 Q. -- for Sparboe company, and he's listed on the

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<p>1 environmental committee. Do you see that?</p> <p>2 A. Correct.</p> <p>3 Q. Why was Mr. Mueller participating on the</p> <p>4 environmental committee of the UEP?</p> <p>5 A. John's role as our -- John's role in our company</p> <p>6 was to deal with matters of the environment, permitting, so</p> <p>7 understanding what was going on with the EPA, understanding</p> <p>8 all of those kinds of things, which are very important in</p> <p>9 terms of expanding, and any time you do anything in terms</p> <p>10 of building a new barn there was a lot of permitting</p> <p>11 issues, and that was John's responsibility in our company.</p> <p>12 Q. So in addition to giving legal advice to the</p> <p>13 company, he was also involved in permitting and having to</p> <p>14 understand environmental issues?</p> <p>15 A. Compliance matters, yes.</p> <p>16 Q. Do you know if he needed special legal skills or</p> <p>17 knowledge in order to be a member of the environmental</p> <p>18 committee?</p> <p>19 A. No, I don't believe so.</p> <p>20 Q. Okay.</p> <p>21 A. I don't. Not that I'm aware of.</p> <p>22 Q. Okay. And if you look at the quality and</p> <p>23 assurance page, which is 99, you'll see that</p> <p>24 Mr. Wayne Carlson joined the quality and assurance</p> <p>25 committee and he replaced Mr. Sparboe. Is that right?</p>	<p>1 MR. HUTCHINSON: Thank you.</p> <p>2 BY MR. PATTON</p> <p>3 Q. Now, Exhibit 8 is marketing committee minutes</p> <p>4 from May 10, 2004, and do you see that your name is listed</p> <p>5 as one of the committee members?</p> <p>6 A. Yes.</p> <p>7 Q. Do you recall attending this meeting in May?</p> <p>8 A. I do not.</p> <p>9 Q. If you look --</p> <p>10 A. It looks like I was present.</p> <p>11 Q. And one of the things that was reviewed was the</p> <p>12 prior minutes from January 26, 2004. Do you see that?</p> <p>13 A. Could you rephrase the question?</p> <p>14 Q. Sure. If you look at the agenda for the</p> <p>15 May 10, 2004, meeting, it was -- the number two point on</p> <p>16 the agenda is minutes of the January 26, 2004, meeting. Do</p> <p>17 you see that?</p> <p>18 A. Yes, yes.</p> <p>19 Q. If you turn the page, you'll see the</p> <p>20 January 26, 2004 --</p> <p>21 A. Yes.</p> <p>22 Q. -- minutes of the marketing committee, and you</p> <p>23 were in attendance --</p> <p>24 A. Yes.</p> <p>25 Q. -- at that, too?</p>
<p>1 A. Yes.</p> <p>2 Q. And was it Mr. Sparboe that asked Wayne to be on</p> <p>3 the committee?</p> <p>4 A. I assume so, yes.</p> <p>5 Q. So we've seen now, at least for two or three</p> <p>6 years, that Sparboe had at least three members of its</p> <p>7 business on various members of the UEP, right?</p> <p>8 A. Right. At this time we were engaged with the</p> <p>9 work UEP was doing, which would benefit our company as</p> <p>10 well, food safety, understanding what was going, regulatory</p> <p>11 environment, legislative, Washington matters, and it was</p> <p>12 important to be -- these committees ran concurrent at the</p> <p>13 same time, and so if you didn't have somebody in each room,</p> <p>14 you might not get the information.</p> <p>15 (Exhibit Number 8 was marked for identification</p> <p>16 by Mr. Patton.)</p> <p>17 BY MR. PATTON</p> <p>18 Q. Let me hand you what's been marked as Exhibit 8</p> <p>19 to your deposition, and it is a document bearing</p> <p>20 CMO000189887, and it is the UEP marketing committee minutes</p> <p>21 from May 10, 2004, and I'm going to apologize. There's</p> <p>22 some highlighting on this document that came through on the</p> <p>23 copy, and maybe I can get that switched out at some point,</p> <p>24 but it's not going to affect your ability to read the</p> <p>25 document.</p>	<p>1 A. Yes.</p> <p>2 Q. And that was in Atlanta, Georgia?</p> <p>3 A. Yes.</p> <p>4 Q. And do you recall, as you sit here today, going</p> <p>5 to that meeting in Atlanta, Georgia?</p> <p>6 A. I believe so, yes.</p> <p>7 Q. And, well, what do you recall being discussed at</p> <p>8 that meeting?</p> <p>9 A. I was -- that was ten years ago.</p> <p>10 Q. Okay.</p> <p>11 A. I don't specifically remember.</p> <p>12 Q. Well, one of the things that were reviewed at the</p> <p>13 marketing committee meetings was the -- were statistics of</p> <p>14 the pullet hatches and chick hatches and that type of</p> <p>15 information?</p> <p>16 A. Mm-hmm.</p> <p>17 Q. And yes?</p> <p>18 A. I see that here, yes.</p> <p>19 Q. You would review statistics of pullet hatch, hen</p> <p>20 slaughter, laying hen numbers; is that right?</p> <p>21 A. Yes.</p> <p>22 MR. HUTCHINSON: Objection to form.</p> <p>23 BY MR. PATTON</p> <p>24 Q. Now, let me have you turn to page 899 of this</p> <p>25 document, and these are attached to the January 2004</p>

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<p style="text-align: right;">Page 122</p> <p>1 minutes. Do you see where it says, "Animal care certified 2 program has resulted in 24 million less pullets being 3 hatched since April 2002 than the comparable 23 preceding 4 months"?</p> <p>5 A. Mm-hmm, yes.</p> <p>6 Q. Do you see that? Was it your understanding that 7 one of the purposes of the animal care certified program 8 was to reduce pullet hatch?</p> <p>9 A. I don't understand that.</p> <p>10 Q. You have no understanding of what this reference 11 is to?</p> <p>12 A. This -- I can see what this document is 13 referencing, but I can speak only for our company.</p> <p>14 Q. Well, you were at this meeting, and so I'm trying 15 to ask you.</p> <p>16 A. But that doesn't -- yeah, okay.</p> <p>17 Q. What I'm trying to ask you, at this meeting, it's 18 true, is it not, that a presentation was made indicating 19 that the animal care certified program had resulted 20 in 24 million less pullets hatched in the preceding 23 21 months, right?</p> <p>22 A. Mm-hmm, yes.</p> <p>23 Q. Now, at this meeting did you object or raise any 24 concerns to that finding?</p> <p>25 A. What I can tell you is Sparboe Farms consistently</p>	<p style="text-align: right;">Page 124</p> <p>1 in the program of developing those guidelines, the 2 Sparboe Company never engaged or complied with anything 3 that had to do with anything that had to do with any kind 4 of supply reduction.</p> <p>5 BY MR. PATTON</p> <p>6 Q. So is it your testimony that during the 7 development of the UEP 2000 and 2002 guidelines, Sparboe 8 had no knowledge of the purpose of the guidelines was to 9 reduce egg output and raise prices?</p> <p>10 MR. HUTCHINSON: Objection to form.</p> <p>11 WITNESS: Yeah, I don't know. I can't 12 confirm that that was the -- I don't believe that was the 13 objective of the program.</p> <p>14 BY MR. PATTON</p> <p>15 Q. You don't believe that both Mr. Bob Sparboe and 16 Garth Sparboe knew exactly that the UEP guidelines and the 17 certification program that followed later were supply 18 restriction?</p> <p>19 A. I can't confirm that, but Sparboe -- the 20 Sparboe Company had -- we had issues with the ability to 21 comply with what UEP and FMI required us to do with 22 the 100 percent rule, which was why a few years later we 23 withdrew from this program and developed our own program, 24 which was an animal husbandry program that did not require 25 us to have 100 percent rule, which FMI and UEP were</p>
<p style="text-align: right;">Page 123</p> <p>1 believed that the animal care program was designed to deal 2 with the animal rights, desires, for our company to comply 3 with husbandry guidelines that were acceptable to that 4 community. Sparboe Farms never ever bought into a program 5 that would reduce supply or in any way do anything to head 6 to the market. Our commitment was strictly to dealing with 7 the animal husbandry needs, and I think that's what I know 8 for sure, and we never signed on to any supply reduction. 9 We never engaged in any of these activities, so if this was 10 a part of a meeting --</p> <p>11 Q. So thank you for that response, but did 12 Garth Sparboe tell you that?</p> <p>13 A. Tell me what?</p> <p>14 Q. What you just said, because from what I can see, 15 Mr. Garth Sparboe and Bob Sparboe were acutely aware of the 16 fact that the guidelines and the certification program that 17 extend out of that were specifically designed to reduce the 18 output of eggs in United States.</p> <p>19 MR. HUTCHINSON: Objection to form, 20 argumentative.</p> <p>21 WITNESS: The Sparboe Company was supporting 22 the science about the animal care program from the very 23 beginning, engaged, and actively engaged, in the science in 24 a way that would allow us to meet our customers' 25 expectations for animal husbandry guidelines, and early on</p>	<p style="text-align: right;">Page 125</p> <p>1 required through the current program.</p> <p>2 Q. You said the UEP required that?</p> <p>3 A. Correct.</p> <p>4 Q. Okay. If you turn to the page, turn to the 5 page 900, which is one of the slides from the meeting that 6 you were at, do you see three? It says, "The cage space 7 guidelines will continue to require less hens per house."</p> <p>8 Do you see that?</p> <p>9 A. Mm-hmm, yep.</p> <p>10 Q. Now, you understand that the UEP guidelines, as 11 part of their guidelines, had a cage space limitation that 12 was a phase in?</p> <p>13 A. Yep.</p> <p>14 Q. When you saw this, did you understand what they 15 meant, that the cage space will continue to require less 16 hens per hen per house?</p> <p>17 A. That was the basis of the program.</p> <p>18 Q. All right. And less hens means less eggs, right?</p> <p>19 MR. HUTCHINSON: Objection to form.</p> <p>20 WITNESS: No, not necessarily.</p> <p>21 BY MR. PATTON</p> <p>22 Q. Well, I'm curious about that because --</p> <p>23 A. Because you just -- we just build more barns in 24 order to meet our customers' demand, so that didn't mean 25 that the customers weren't buying any less eggs. You had</p>

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1 to expand, and we added a lot of chicken barns during those 2 years in order to meet the need of our customers.	1 (Exhibit Number 10 was marked for identification 2 by Mr. Patton.)	
3 Q. Do you understand that the UEP had been 4 cautioning and advising its members not to build new farms?	3 BY MR. PATTON	
5 A. I can't speak to what the UEP was doing.	4 Q. Let me show you what's been marked as Exhibit 9	
6 Q. Well, let's turn the page. This meeting that you 7 were at, one of the cautions is, "Will we expand too 8 rapidly?"	5 to your deposition, I'm sorry, 10 to your deposition, and	
9 And do you see where it says, "The answer is no. 10 Collectively, as producers build facilities to replace lost 11 production, we will create a national surplus below the 12 cost of production even while still meeting guidelines in 13 the animal aware program, animal care certification 14 program"?	6 these are the minutes of shell egg marketing committee 7 dated January 2005, and bearing Bates stamp 0E- -- start 8 again -- bearing Bates Number UE0309066.	
15 A. Mm-hmm.	9 MR. SLIDDERS: Could you repeat that Bates 10 number, please?	
16 Q. Do you see that?	11 MR. PATTON: UE0309066.	
17 A. I do.	12 BY MR. PATTON	
18 Q. Wasn't that one of the things that the UEP was 19 warning against, that its members not build new farms?	13 Q. Exhibit 10 is a shell egg marketing committee, I 14 guess meeting report, and it shows you, your name being 15 checked on the front page. Do you see that?	
20 A. I think you'll have to ask UEP that.	16 A. Yes.	
21 Q. Well, as a member of the marketing committee, 22 isn't that something you were advocating members not do?	17 Q. And you know that you also attended an 18 October 20, 2004, meeting in New Orleans?	
23 MR. HUTCHINSON: Objection; asked and 24 answered.	19 A. In 2004.	
25 WITNESS: That was never anything I	20 Q. Do you recall going to New Orleans for that 21 meeting?	
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1 personally or our company advocated.	22 A. Yes, I do.	
2 BY MR. PATTON	23 Q. If you turn the page, you'll see where it says on 24 the second page, I'm sorry, on page Bates-numbered 069 25 there is a heading that reads area recommendations. Do you	
3 Q. Let's look at 2005. You were still a member of 4 the marketing committee in 2005; is that correct?	Page 129	
5 A. We withdrew from UEP in the summer of 2005, so 6 depending on what meeting you're looking at.	1 see that?	
7 Q. Well, I'm just saying in the beginning of 2005 8 you were still appointed to the committee, right?	2 A. Yes.	
9 A. I may have been. May I see that document?	3 Q. And it says, "Develop a program to reduce the 4 flock by 5 percent with the goal of reducing the nation's 5 flock size by 8 to 10 million."	
10 Q. Sure. I'm going to mark Exhibit 9 to your 11 deposition.	6 Were you present when there was a discussion of 7 marketing committee members to develop a flock reduction 8 by 5 percent?	
12 (Exhibit Number 9 was marked for identification 13 by Mr. Patton.)	9 A. I recall that meeting.	
14 BY MR. PATTON	10 Q. Yeah, and how would the members of the committee 11 institute such a program, if you recall?	
15 Q. Exhibit 9 is a list of UEP committee appointments 16 for 2005, bearing UE0754510. If you turn to the page 17 that's entitled "Shell Egg Marketing Committee," which 18 is 517, you'll see that you're listed as a member, correct?	12 MS. LEVINE: Object to the form of the 13 question.	
19 A. Yes.	14 COURT REPORTER: I'm sorry, who is speaking?	
20 Q. And so was that a two-year obligation?	15 MS. LEVINE: Jan Levine, counsel for UEP.	
21 A. I don't recall.	16 WITNESS: Could you restate your question?	
22 Q. Well, you were on the committee for '04, and now 23 you're on for '05, right?	17 BY MR. PATTON	
24 A. My name is on the list.	18 Q. Sure. How would -- as a member of this 19 committee, how were you to develop a program to reduce 20 flock by 5 percent? How were you going to go about it?	
25	21 MS. LEVINE: Object to the form of the 22 question.	
	23 MR. HUTCHINSON: Object to the form.	
	24 WITNESS: I'm not -- I think you need to 25 ask UEP that question.	

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1 BY MR. PATTON	1 take any action to tell a competitor what to do with their
2 Q. As a member of the committee, wouldn't you	2 supply.
3 recommend to the membership to take a vote on that and then	3 Q. There's -- towards the end of this document
4 there would be a vote?	4 there's a presentation that was made, and it bears UE082,
5 A. I believe this document says there was a vote,	5 and I'll hold it up so you can see it.
6 does it not?	6 Do you see that chart? It says benefit of
7 Q. Yeah. And it was carried, was it not?	7 reducing at 95 percent capacity?
8 A. It appears to have been carried.	8 A. Mm-hmm.
9 Q. So the --	9 Q. Is that a "yes"?
10 A. I did not vote for this.	10 A. I see that.
11 Q. Oh, Sparboe didn't vote for it?	11 Q. Yes. This is a chart that explains how by
12 A. We did not vote for this.	12 reducing a flock by 5 percent egg prices go up, does it
13 Q. You recall that?	13 not?
14 A. I absolutely recall that. Nor did we comply with	14 MR. HUTCHINSON: Objection to form.
15 any of this.	15 WITNESS: Yes, it does say that.
16 Q. Was it important, however, for Sparboe to, in its	16 BY MR. PATTON
17 presence at the membership meeting, support the flock	17 Q. That's simple economics, right? When supply is
18 reduction program?	18 tight, price goes up?
19 A. Could you please restate that?	19 MR. HUTCHINSON: Objection to form.
20 Q. Sure. If Sparboe, if you're saying Sparboe	20 WITNESS: I can't speak to this document.
21 didn't comply with this, wasn't it in your best interest to	21 Gene Gregory was the staff person for UEP for this
22 make sure that other suppliers did comply with the flock	22 committee and these were documents that he created and
23 reduction?	23 would have presented to the committee. This in no way
24 A. No.	24 reflects Sparboe's thinking or my personal thinking as it
25 Q. If other members reduced their flocks by five	25 relates to this issue.
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1 percent, wouldn't that raise or have the potential of	1 BY MR. PATTON
2 raising the price of eggs nationally?	2 Q. But this was presented at a committee that you
3 A. Absolutely. We had no interest in that. I --	3 were on, right?
4 none.	4 A. I was at this committee, yes, on this committee.
5 Q. Let me have you -- why do the minutes not reflect	5 Q. And if you go to the previous page, you'll see it
6 here that you voted against it?	6 says supply-demand relationship between price. I'm sorry,
7 A. UEP did not report minutes that way.	7 it's the page probably right behind it, supply-demand
8 Q. So, well, I've seen minutes where it says vote,	8 relationship with price.
9 no vote, or pass but one no vote.	9 A. Mm-hmm.
10 A. Have you?	10 Q. Is it consistent with your view that annual
11 Q. Yeah. Are you absolutely certain you voted	11 population increases by about 1 percent?
12 against this?	12 A. Human population?
13 MR. HUTCHINSON: Objection; asked and	13 Q. Yeah.
14 answered.	14 A. That's -- I think that's understood.
15 WITNESS: I've answered that.	15 Q. And so when -- in projecting egg supply, is it
16 MR. HUTCHINSON: The document nowhere says	16 understood that egg supply can increase by 1 percent just
17 that this was carried unanimously.	17 to account for population growth?
18 BY MR. PATTON	18 MR. HUTCHINSON: Objection; calls for
19 Q. But as a member of the committee, the committee,	19 speculation.
20 the vote carried by committee, right?	20 WITNESS: And there are other variables in
21 A. Apparently.	21 terms of demand and the products that are used and export
22 Q. And did you take any efforts to encourage people	22 and disease. Demand might not stay the same, but disease
23 to not pursue a 5 percent molt?	23 might or you might have a disease in one state that wipes
24 A. I didn't feel that was my -- no, I don't know.	24 out 1 or 2 percent of the egg -- or the flock, so there are
25 No, I would not have taken any motion, any. I would never	25 many, many variables that impact supply.

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<p>1 BY MR. PATTON</p> <p>2 Q. And when that happens, price goes up?</p> <p>3 A. When what happens?</p> <p>4 Q. When there's a supply restriction?</p> <p>5 MR. HUTCHINSON: Objection to form.</p> <p>6 WITNESS: Not always, no.</p> <p>7 BY MR. PATTON</p> <p>8 Q. Well, let's look at this one, benefit of</p> <p>9 production at 95 percent capacity, that we have in front of</p> <p>10 you, Bates Number 82. This indicates, does it not, that</p> <p>11 by -- in the little boxes there, that by -- the example</p> <p>12 he's giving is 100,000 hens, and if you reduce that</p> <p>13 to 95,000 hens, egg prices goes from 67 cents to 82 cents.</p> <p>14 Do you see that?</p> <p>15 A. I do.</p> <p>16 MR. HUTCHINSON: Objection to form.</p> <p>17 BY MR. PATTON</p> <p>18 Q. Huh?</p> <p>19 A. Yes, I see that.</p> <p>20 Q. And was this something you were discussing and</p> <p>21 acknowledging at the marketing committee?</p> <p>22 A. I don't recall what the context of that</p> <p>23 particular meeting was, but I would have to defer to</p> <p>24 Mr. Gregory.</p> <p>25 Q. I mean, did you stand up and dispute that and</p>	<p>1 Bell-D-00027071.</p> <p>2 A. Mm-hmm.</p> <p>3 Q. And you see you're listed as a member of the</p> <p>4 government relations committee in 2006?</p> <p>5 A. I see my name on this list, but I was never a</p> <p>6 member of the government relations committee of UEP.</p> <p>7 Q. So this is an error probably?</p> <p>8 A. We were not members of UEP in 2006. This</p> <p>9 document looks like it was drafted in October of 2005, and</p> <p>10 we were no longer members of UEP, so I couldn't have been</p> <p>11 on the committee.</p> <p>12 Q. When did UEP rejoin the --</p> <p>13 (REPORTER'S NOTE): Interruption by</p> <p>14 teleconference administration.)</p> <p>15 MR. HUTCHINSON: We better go off the</p> <p>16 record.</p> <p>17 MR. PATTON: Okay.</p> <p>18 VIDEOGRAPHER: We are going off the record.</p> <p>19 The time is 12:09 p.m.</p> <p>20 (Discussion was held off the record.)</p> <p>21 (A lunch break was taken.)</p> <p>22 VIDEOGRAPHER: We are back on the record.</p> <p>23 The time is 1:21 p.m.</p> <p>24 * * * * *</p> <p>25 AFTERNOON SESSION</p>
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<p>1 say, I've got other economics that don't support that</p> <p>2 theory?</p> <p>3 A. I did not stand up and say that I have other</p> <p>4 economics that dispute that theory.</p> <p>5 Q. Okay. Let me ask you about 2006. In 2006, did</p> <p>6 you become -- were you a member of the UEP marketing</p> <p>7 committee, I'm sorry, the government relations committee?</p> <p>8 A. Personally?</p> <p>9 Q. Yeah, I have -- I'm going to ask you, or I can</p> <p>10 mark it. I have minutes. I have a list of appointments</p> <p>11 from 2006, and it shows you as a member of the government</p> <p>12 relations committee.</p> <p>13 MR. HUTCHINSON: Objection to form.</p> <p>14 WITNESS: I can't confirm that.</p> <p>15 BY MR. PATTON</p> <p>16 Q. Let me mark it just in case and we'll deal with</p> <p>17 that. Because there came a point where you, where Sparboe,</p> <p>18 temporarily, I guess is the word, quit the UEP?</p> <p>19 A. I don't --</p> <p>20 MR. HUTCHINSON: Objection to form.</p> <p>21 (Exhibit Number 11 was marked for identification</p> <p>22 by Mr. Patton.)</p> <p>23 MR. HUTCHINSON: Thank you.</p> <p>24 BY MR. PATTON</p> <p>25 Q. If you turn to -- this is Bates-stamped</p>	<p>1 MR. PATTON: I am suspending my questions of</p> <p>2 the witness at this time.</p> <p>3 MS. SCHWARTZ: And so I'm ready to begin.</p> <p>4 This is Rachel Schwartz on behalf of the</p> <p>5 Kansas plaintiffs. This deposition was cross-noticed in</p> <p>6 the Kansas case as a continuation of the notice that</p> <p>7 plaintiffs had originally served. It's 1:21 and I am ready</p> <p>8 to begin questions of the witness with regard to what she's</p> <p>9 already been discussed today, and there is no witness here</p> <p>10 in the room as of 1:21.</p> <p>11 And at 1:11 today I received an email from</p> <p>12 Molly Crabtree copying Troy Hutchinson, saying, and I'll</p> <p>13 read it in full, quote:</p> <p>14 "Troy, per our conversation, we agree</p> <p>15 that Rose Acree will renote Ms. Schnell's</p> <p>16 deposition on a future date other than</p> <p>17 today. The notice for today is withdrawn,</p> <p>18 and once we have a date that works for</p> <p>19 everyone, we are happy to reissue it.</p> <p>20 Thanks, Molly."</p> <p>21 That's the entire email that I received</p> <p>22 today at 1:11 p.m., following the lunch break in this</p> <p>23 deposition. The plaintiffs in the Kansas case have</p> <p>24 incurred the cost, the substantial cost and time to fly</p> <p>25 here from Kansas City for the deposition today. I am</p>

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<p style="text-align: right;">Page 138</p> <p>1 prepared to begin the questions we have for the witness.      2 The witness never returned from lunch, and the first we      3 hear about this deposition being canceled is by an email      4 at 1:11 today.</p> <p>5 We will object to any attempt to reschedule      6 this deposition. There is plenty of time available today.      7 We have approximately five more hours at a minimum that are      8 available even under the seven-hour rule, which is not      9 applicable to Kansas.</p> <p>10 And in addition to this, I asked off the      11 record prior to coming onto the record whether there was an      12 emergency that led to this rescheduling and there is none.      13 There is no medical condition. There is no family      14 emergency. There is no emergency that is the basis for      15 rescheduling this deposition. It has just been      16 unilaterally canceled with an intent to reschedule it,      17 which we will object to, and we will also go to the court      18 to seek our costs and expenses for flying out today with --      19 to take questions of the witness who did not even return      20 after the lunch break.</p> <p>21 MR. HUTCHINSON: Let me make a brief record      22 in response to that.</p> <p>23 Ms. Schwartz, do you have a deposition      24 notice that you noticed a deposition today?</p> <p>25 MS. SCHWARTZ: We were cross-noticed in this</p>	<p style="text-align: right;">Page 140</p> <p>1 was refusal by Sparboe to produce the witness for a second      2 day of 30(b)(6) testimony despite again traveling out to      3 Minnesota to take this deposition. We've now done this a      4 second time. We are not even given the opportunity today      5 to follow up on questions that have been taken this morning      6 for testimony that the defendants intend to use in the      7 Kansas case and was noticed for the Kansas case and we're      8 not even given the opportunity to discuss those topics --</p> <p>9 MR. HUTCHINSON: Well --</p> <p>10 MS. SCHWARTZ: -- much less the other      11 topics.</p> <p>12 MR. HUTCHINSON: -- that's not true,      13 Ms. Schwartz. The deposition, the first deposition that      14 you took already, you had over a full day. It was late in      15 the evening when we finished that for the day, and you have      16 an opportunity at some point in the future to take      17 additional testimony. No one's denied you that      18 opportunity. It's just not going to happen today. We'll      19 reschedule it for a mutually agreed upon date.</p> <p>20 MR. SLIDDERS: For the indirect purchaser      21 plaintiffs' perspective, can I confirm firstly that will      22 there will be no further questions of Ms. Schnell today,      23 and that the indirect purchaser plaintiffs will also be      24 given the opportunity to take further testimony in the      25 future?</p>
<p style="text-align: right;">Page 139</p> <p>1 case, and flew all the way out here for a deposition that      2 began this morning.</p> <p>3 MR. HUTCHINSON: But you did not notice the      4 deposition?</p> <p>5 MS. SCHWARTZ: The testimony that was taken      6 this morning is applicable to the Kansas case, and --</p> <p>7 MR. HUTCHINSON: So --</p> <p>8 MS. SCHWARTZ: -- it is a continuation of      9 the deposition notice that was previously served by the      10 plaintiffs in the Kansas case.</p> <p>11 MR. HUTCHINSON: Well --</p> <p>12 MS. SCHWARTZ: That's specifically what the      13 cross-notice says.</p> <p>14 MR. HUTCHINSON: -- you previously took      15 deposition, and defendants noticed Ms. Schnell and Sparboe      16 for today so that they had an opportunity to conduct cross      17 of your direct examination that you already had, so they've      18 now withdrawn that for today to reschedule it later, and      19 that's all that's happening. You'll have an opportunity to      20 appear later as well, but they've withdrawn that notice.      21 You didn't notice a deposition for today. That's all      22 that's happening.</p> <p>23 MS. SCHWARTZ: And as you know, Troy, at the      24 first day of the deposition with this witness, the      25 deposition was cutoff unilaterally again by Sparboe. There</p>	<p style="text-align: right;">Page 141</p> <p>1 MR. HUTCHINSON: No, absolutely not.      2 Sparboe is not a party to that case. We have never      3 received a subpoena from the indirect purchasers, and as      4 far as we're concerned, we have nothing to do with that      5 case.</p> <p>6 MR. SLIDDERS: Okay. So your      7 representations to the court and an email to Mr. Bovans      8 that you would allow us to participate informally does not      9 apply in the future?</p> <p>10 MR. HUTCHINSON: There's no deposition in      11 the MVL case at this point. If there is in the future, we      12 can talk about it, but there's no deposition going forward      13 today.</p> <p>14 MR. SLIDDERS: Is there depositions going      15 forward tomorrow of Mr. Mueller?</p> <p>16 MR. HUTCHINSON: That remains to be seen.      17 We can let you know at -- probably today, but my -- I      18 anticipate that all those depositions this week will be      19 postponed.</p> <p>20 MS. SCHWARTZ: Does that include the Cargill      21 deposition for this week as well?</p> <p>22 MR. HUTCHINSON: I did not notice that      23 deposition.</p> <p>24 MS. SCHWARTZ: Well, let's make it clear on      25 the record today as to whether the deposition for tomorrow</p>

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1 is going forward. That's also been cross-noticed in the 2 Kansas case.	1 I do not know what's going on, but we have 2 not withdrawn the Mueller notice. I don't know if we will 3 or not.
3 MR. HUTCHINSON: That deposition is not 4 going forward tomorrow.	4 MS. SCHWARTZ: Well, that needs to be 5 figured out right now, and we want to put this on the 6 record.
5 MR. SLIDDERS: That's the deposition of 6 Mr. Mueller?	7 MR. SLIDDERS: As far as we're concerned, 8 Mr. Hutchinson has represented that the Mueller deposition 9 will not be going forward tomorrow.
7 MR. HUTCHINSON: Correct.	10 MR. HUTCHINSON: That's true. We agreed to 11 produce him because he was noticed in the MVL. He's a 12 third party, a nonparty. He was never subpoenaed, but we 13 agreed to produce him. Mr. Patton has indicated that 14 deposition is not moving forward tomorrow, so Mr. Mueller 15 will not be appearing tomorrow, but for the defendants who 16 noticed him for tomorrow in the Kansas case, we can agree 17 to a later date that's mutually convenient for the parties 18 and the witness.
8 MR. SLIDDERS: The deposition of Mr. Carlson 9 scheduled for Thursday?	19 MS. CRABTREE: Rose Acre can't compel him to 20 appear tomorrow because we did not subpoena him, so we'll 21 have to work out -- we have no control over whether he 22 shows up tomorrow or not.
10 MR. HUTCHINSON: That is not going forward. 11 MR. SLIDDERS: The deposition of Mr. Sparboe 12 scheduled for Friday?	23 MR. HUTCHINSON: Right. And we'll agree to 24 make him available at a later date.
13 MR. HUTCHINSON: That is not going forward. 14 That's my understanding.	25 MS. SCHWARTZ: Is there anybody on the line
15 MR. SLIDDERS: Well, can we take that on the 16 record now as confirmation that they are not going forward?	
17 MR. HUTCHINSON: Mr. Patton?	
18 Mr. Patton noticed them, so I will defer to 19 him.	
20 MR. PATTON: I'm standing down from those 21 notices.	
22 MR. SLIDDERS: When you say you're standing 23 down from those notices, are you putting those back in 24 abeyance?	
25 COURT REPORTER: I'm sorry, I didn't hear	
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1 that.	1 who can confirm whether or not the Cargill deposition is 2 going forward this week that's also here in Minneapolis?
2 MR. SLIDDERS: Are you putting those notices 3 in abeyance?	3 MS. CRABTREE: Rachel, what day is that?
4 MR. PATTON: I don't -- I'm not going to go 5 forward with them tomorrow. That's all I can say.	4 MS. SCHWARTZ: It's also Thursday.
6 MR. SLIDDERS: And can you confirm that 7 you're not going forward with them on Thursday and Friday?	5 MR. HUTCHINSON: Are we done with the record 6 or --
8 MR. PATTON: Yes.	7 MS. SCHWARTZ: Well, no. I want this on the 8 record as well.
9 MR. SLIDDERS: Okay. So the depositions of 10 Mr. Mueller, Mr. Carlson, and Mr. Sparboe, and the rest of 11 the deposition of Ms. Schnell, Sparboe, Schnell, will not 12 be proceeding this week; is that correct?	9 MR. HUTCHINSON: Because that was noticed by 10 a party that's not represented today. It was represented 11 by Daybreak, who has no attorney here today, so I don't 12 think anyone can tell you that. But I don't think the 13 goings on of Sparboe depositions will impact notices that 14 Daybreak sent to some other party. I don't think that. I 15 don't think there's any relation.
13 MR. HUTCHINSON: That's correct.	16 MS. SCHWARTZ: Troy, will you just confirm 17 on the record, so that there's no confusion about this 18 later in the day, Ms. Schnell has not had a medical 19 emergency come up today, correct?
14 MS. SCHWARTZ: And just for the record, the 15 deposition of Mr. Mueller was also cross-noticed in the 16 Kansas case. We had traveled to Minneapolis in part to 17 participate in Ms. Schnell's depo and in Mr. Mueller's 18 deposition and would object again to any attempt to 19 renotice those in the Kansas case.	20 MR. HUTCHINSON: I'm not going to get into 21 Ms. Schnell's health, but I -- you know, that's not the 22 reason that the deposition has been canceled, Rachel.
20 Again, there's been no articulation of an 21 emergency or anything else that has come up today that 22 would prompt the rescheduling of these depositions, and 23 counsel are all here present and ready to proceed and we've 24 been told we cannot.	23 MS. SCHWARTZ: Then can you say on the 24 record, what is the basis for the cancellation today?
25 MS. CRABTREE: This is Molly Crabtree.	25 MR. HUTCHINSON: I'd rather not.

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<p>1 MS. SCHWARTZ: And we have that on the 2 record. That's fine. I just wanted to make sure that was 3 on the record. I don't think there's anything else we need 4 on the record.</p> <p>5 MR. SLIDDER: That's for all? Are you sure 6 that's for all three witnesses coming in the next three 7 days?</p> <p>8 MR. HUTCHINSON: I'm sorry?</p> <p>9 MR. SLIDDER: You're not prepared to share 10 a reason for why the depositions with Mr. Mueller, 11 Mr. Carlson, and Mr. Sparboe will not be proceeding in the 12 next three days?</p> <p>13 MR. HUTCHINSON: Oh, I know why they're not 14 proceeding. Mr. Patton has decided to not go forward with 15 those depositions this week, and he's the party that 16 noticed them, so . . .</p> <p>17 MR. SLIDDER: Yep.</p> <p>18 COURT REPORTER: Can the parties please 19 state their transcript preferences on the record, if they 20 want a copy?</p> <p>21 MS. SCHWARTZ: Yeah, you've got -- hopefully 22 they should have --</p> <p>23 MR. SLIDDER: We've got standing --</p> <p>24 COURT REPORTER: Everybody's got a standard 25 order?</p>	<p>1 REPORTER'S CERTIFICATE 2 STATE OF MINNESOTA )  ) SS 3 COUNTY OF RAMSEY ) 4 I hereby certify that I reported the videotaped 5 deposition of BETH SPARBOE SCHNELL on April 22, 2014, in Wayzata, Minnesota, and that the witness was by me first duly sworn to tell the whole truth;</p> <p>6 7 That the testimony was transcribed by me and is a true record of the testimony of the witness;</p> <p>8 9 That the cost of the original has been charged to the party who noticed the deposition, and that all parties who 10 ordered copies have been charged at the same rate for such copies;</p> <p>11 12 That I am not a relative or employee or attorney or counsel of any of the parties, or a relative or employee of such attorney or counsel;</p> <p>13 14 That I am not financially interested in the action and have no contract with the parties, attorneys, or persons 15 with an interest in the action that affects or has a substantial tendency to affect my impartiality;</p> <p>16 17 18 19 WITNESS MY HAND AND SEAL THIS 2nd day of May 2014.</p> <p>20 21 22 23 24 Anne Hegerman, Court Reporter Notary Public, Ramsey County, Minnesota 25 My commission expires January 31, 2016.</p>																																																						
Page 147	Page 149																																																						
<p>1 MR. PATTON: (Nods head.)</p> <p>2 MR. HUTCHINSON: (Nods head.)</p> <p>3 MR. SLIDDER: Yeah.</p> <p>4 MS. SCHWARTZ: Yeah.</p> <p>5 VIDEOGRAPHER: This marks the end of the 6 deposition. Going off the record at 1:32 p.m.</p> <p>7 (The deposition was concluded at 1:32 p.m.)</p> <p>8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>1 ACKNOWLEDGMENT OF DEPONENT 2 I, BETH SPARBOE SCHNELL , do hereby certify 3 that I have read the foregoing transcript of my 4 testimony taken on 4/22/14, and further certify 5 that it is a true and accurate record of my 6 testimony (with the exception of the corrections 7 listed below):</p> <table border="0"> <thead> <tr> <th>Page</th> <th>Line</th> <th>Correction</th> </tr> </thead> <tbody> <tr><td>9</td><td></td><td></td></tr> <tr><td>10</td><td></td><td></td></tr> <tr><td>11</td><td></td><td></td></tr> <tr><td>12</td><td></td><td></td></tr> <tr><td>13</td><td></td><td></td></tr> <tr><td>14</td><td></td><td></td></tr> <tr><td>15</td><td></td><td></td></tr> <tr><td>16</td><td></td><td></td></tr> <tr><td>17</td><td></td><td></td></tr> <tr><td>18</td><td></td><td></td></tr> <tr><td>19</td><td></td><td></td></tr> <tr><td>20</td><td></td><td></td></tr> <tr><td>21</td><td></td><td>BETH SPARBOE SCHNELL</td></tr> <tr><td>22</td><td></td><td>SUBSCRIBED AND SWORN TO BEFORE ME</td></tr> <tr><td>23</td><td></td><td>THIS ____ DAY OF _____, 20____.</td></tr> <tr><td>24</td><td></td><td></td></tr> <tr><td>25</td><td>(NOTARY PUBLIC)</td><td>MY COMMISSION EXPIRES:</td></tr> </tbody> </table>	Page	Line	Correction	9			10			11			12			13			14			15			16			17			18			19			20			21		BETH SPARBOE SCHNELL	22		SUBSCRIBED AND SWORN TO BEFORE ME	23		THIS ____ DAY OF _____, 20____.	24			25	(NOTARY PUBLIC)	MY COMMISSION EXPIRES:
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